By Mr. COLE of Maryland:

H. Res. 445. Resolution authorizing the Committee on Interstate and Foreign Commerce of the House of Representatives to have printed additional copies of part 1 of its hearings held pursuant to the resolution (H. Res. 290) authorizing the Committee on Interstate and Foreign Commerce to conduct an investigation of the petroleum industry; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FRIES:

H. R. 9150. A bill for the relief of the Illinois National Casualty Co.; to the Committee on Claims.

By Mr. COLLINS:

H. R. 9151. A bill for the relief of Thomas A. Smith; to the Committee on Military Affairs.

By Mr. ANDERSON of Missouri:

H. R. 9152. A bill for the relief of Edward P. Reilly; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7227. By Mr. GILCHRIST: Petition of the Farm Bureau of Emmet County, Iowa, concerning parity payments, etc.; to the Committee on Appropriations.

7228. By Mr. GOODWIN: Petition of the Fernald Parent-Teachers' Association, Fernald, Iowa, signed by Mrs. Russell J. Chitty, Mrs. Clarence Hilburn, Mrs. Arthur Couser, Mrs. Harris Enderson, Mrs. Alvin Nelson, Mrs. James Talbott, Olin C. Bissell, Mae B. Bair, Mrs. C. S. Toot, Mrs. Jake Wise, Mrs. Leo Moser, Leo Moser, C. S. Swanson, H. E. Enderson, Alvin Nelson, J. A. Wise, and Mrs. C. E. Swanson, urging enactment of the Neely bill, Senate file 280; to the Committee on Interstate and Foreign Commerce.

7229. By Mr. GILCHRIST: Petition of sundry citizens of Manning, Iowa, asking enactment of House bill No. 1, being the chain-store bill; to the Committee on Ways and Means.

7230. By Mr. LAMBERTSON: Petition of Mrs. R. A. Kapitan and 11 other members of the Women's Home Missionary Society of Blue Rapids, Kans., urging Congress to pass the Neely bill (S. 280); to the Committee on Interstate and Foreign Commerce.

7231. Also, petition of Zillah B. Lamb and 28 other citizens of Topeka, Kans., protesting against the shipment of scrap iron and other supplies to Japan in her war on China, and urging Congress to take action to eliminate this; to the Committee on Foreign Affairs.

7232. Also, petition of Mrs. Fred German and 53 other citizens of Atchison, Kans., urging the passage of the Neely bill; to the Committee on Interstate and Foreign Commerce.

7233. Also, petition of Mrs. Andrew E. Newcomer and 29 other members of the Annie Adams Baird Missionary Society, Topeka, Kans., urging Congress to take measures to stop the shipping to Japan of materials of war against China; to the Committee on Foreign Affairs.

7234. By Mr. LYNCH: Petition of the United War Veterans Committee of the City of New York, requesting certain recommendations for inclusion in the relief appropriation bill of 1940–41; to the Committee on Appropriations.

7235. By Mr. JOHNS: Petition of John A. Pahl and Joseph E. Jungwirth, of Sister Bay, Wis., respectfully asking speedy enactment of the Patman chain-store bill (H. R. 1); to the Committee on Ways and Means.

7236. Also, petition of A. Vande Walle, of Nichols, Wis., respectfully asking speedy enactment of the Patman chain-store bill (H. R. 1); to the Committee on Ways and Means.

7237. Also, petition of Thomas Rasmussen, of Mountain, Wis., respectfully asking speedy enactment of the Patman chain-store bill (H. R. 1); to the Committee on Ways and Means.

7238. Also, petition of H. H. Schulze, and five other citizens of Greenville, Wis., respectfully asking speedy enactment of the Patman chain-store bill (H. R. 1); to the Committee on Ways and Means.

7239. By Mr. LUTHER A. JOHNSON: Petition of F. R. Ender and others of Hubbard, Tex., urging legislation to prohibit gambling in farm products; to the Committee on Agriculture.

7240. By Mr. KEOGH: Petition of the United War Veterans Committee, Brooklyn, N. Y., requesting that certain recommendations for veterans, their wives, and widows be included in the 1940–41 relief appropriation, etc.; to the Committee on Appropriations .

7241. Also, petition of David C. Reid Co., New York city, concerning the Wheeler-Lea transportation bill (S. 2009); to the Committee on Interstate and Foreign Commerce.

7242. Also, petition of the American Communications Association, Postal Local 36A, New York City, opposing any reduction in the appropriation for the National Labor Relations Board and Wage and Hour Division; to the Committee on Labor.

7243. By Mr. PLUMLEY: Petition of Brandon Post, No. 55, American Legion, favoring the passage of House bill 7593, widows and orphans bill; to the Committee on World War Veterans' Legislation.

7244. By Mr. THOMASON: Petition of consumers, salesmen, and merchants of El Paso, urging passage of the Patman chain-store tax bill (H. R. 1); to the Committee on Ways and Means.

7245. By Mr. VREELAND: Concurrent resolution of the House of Assembly of the State of New Jersey, memorializing the Congress to enact legislation to reimburse the Passaic Valley sewerage commissioners for damages occasioned to the outfall pipes of the Passaic Valley trunk sewer in New York Harbor by the steamship *Leviathan*, which was owned and operated by the United States of America; to the Committee on Claims.

7246. By the SPEAKER: Petition of the International Brotherhood of Electrical Workers, Stockton, Calif., submitting a resolution in favor of Senate bill 591; to the Committee on Claims.

7247. Also, petition of the Bricklayers, Masons, Marble and Tile Setters, Local No. 55, of the B. M. P. I. U., submitting a resolution in support of Senate bill 591; to the Committee on Banking and Currency.

7248. Also, petition of the Democratic National Committee, Women's Overseas Service League, Birmingham Unit, endorsing the proposed equal-rights amendment; to the Committee on the Judiciary.

7249. Also, memorial of the State of Rhode Island, memorializing the President and the Congress of the United States to consider their resolution with reference to proposing an amendment to the Constitution; to the Committee on the Judiciary.

SENATE

FRIDAY, MARCH 29, 1940

(Legislative day of Monday, March 4, 1940)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. Duncan Fraser, assistant rector, Church of the Epiphany, Washington, D. C., offered the following prayer:

Most gracious God, we humbly beseech Thee, as for the people of these United States in general, so especially for their Senate and Representatives in Congress assembled, that Thou wouldst be pleased to direct and prosper all their consultations, to the advancement of Thy glory, the good of Thy church, the safety, honor, and welfare of Thy people; that all things may be so ordered and settled by their endeavors, upon the best and surest foundations; that peace and happiness, truth, and justice may be established among us for all generations. These and all other necessaries, for them, for

us, and Thy whole church, we humbly ask in the name and mediation of Jesus Christ, our most blessed Lord and Saviour. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, March 28, 1940, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 9007. An act making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1941, and for other purposes; and

H. R. 9016. An act to amend the joint resolution creating the Niagara Falls Bridge Commission.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Downey	Lee	Schwartz
Ashurst	Ellender	Lodge	Schwellenbach
Austin	Frazier	Lucas	Sheppard
Bankhead	George	Lundeen	Shipstead
Barbour	Gerry	McCarran	Smathers
Barkley	Gibson	McKellar	Smith
Bilbo	Gillette	McNary	Stewart
Bone	Glass	Maloney	Taft
Bridges	Green	Mead	Thomas, Idaho
Brown	Guffey	Miller	Thomas, Okla.
Bulow	Gurney	Minton	Thomas, Utah
Byrd	Hale	Murray	Tobey
Byrnes	Harrison	Neely	Townsend
Capper	Hatch	Norris	Truman
Caraway	Hayden	Nye	Vandenberg
Chandler	Herring	O'Mahoney	Van Nuys
Chavez	Holman	Overton	Wagner
Clark, Idaho	Holt	Pepper	Walsh
Clark, Mo.	Hughes	Pittman	White
Connally	Johnson, Calif.	Radcliffe	Wiley
Danaher	Johnson, Colo.	Reed	
Davis	King	Reynolds	
Donahey	La Follette	Russell	

Mr. MINTON. I announce that the Senator from Florida [Mr. ANDREWS], the Senator from North Carolina [Mr. BAILEY], the Senator from Nebraska [Mr. BURKE], the Senator from Alabama [Mr. HILL], the Senator from Illinois [Mr. SLATTERY], and the Senator from Maryland [Mr. TYDINGS] are detained on important public business.

The Senator from Montana [Mr. WHEELER] is unavoidably detained.

The VICE PRESIDENT. Eighty-nine Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution of the St. James Commercial Club, of St. James, Minn., protesting against the enactment of the bill (H. R. 7762) to amend the Social Security Act and the Internal Revenue Code, to provide more adequate unemployment compensation, and for other purposes, which was referred to the Committee on Finance.

Mr. WILEY presented a resolution of Group No. 1476, Polish National Alliance, of Milwaukee, Wis., favoring the appropriation of $20,000,000 for purposes of relief in Poland, which was referred to the Committee on Foreign Relations.

Mr. REED presented petitions signed by 64 citizens of the State of Kansas, expressing approval of parity payments under the Triple A program and praying that the funds for such payments be derived from a processing tax, which were ordered to lie on the table.

Mr. VANDENBERG presented the petition of members of the Metropolitan Methodist Episcopal Church, of Detroit, Mich., praying for the enactment of the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio, which was ordered to lie on the table.

Mr. WALSH presented a resolution of the mayor and council of the city of Brockton, Mass., protesting against a proposed lay-off of W. P. A. workers in that city, which was referred to the Committee on Appropriations.

He also presented a letter in the nature of a petition from the Grand Council of the Grand Lodge of Massachusetts, Order Sons of Italy in America, signed by Joseph Gorrasi, grand venerable, Boston, Mass., praying for the enactment of the so-called Mead resolution, being the joint resolution (S. J. Res. 213) authorizing the acceptance of the invitation of the Government of Italy to participate in the Rome Universal Exhibition to be held at Rome, Italy, in 1942, which was referred to the Committee on Foreign Relations.

REPORTS OF MILITARY AFFAIRS COMMITTEE

Mr. JOHNSON of Colorado, from the Committee on Military Affairs, to which was referred the bill (S. 1460) to provide uniform reciprocal hospitalization in any Army or Navy hospital for retired personnel of the Army, Navy, Marine Corps, and Coast Guard, and for other purposes, reported it with an amendment and submitted a report (No. 1359) thereon.

He also, from the same committee, to which was referred the bill (S. 1461) to remove discriminations against retired Army enlisted personnel and to equalize hospitalization and domiciliary benefits of retired enlisted men of the Army, Navy, Marine Corps, and Coast Guard, reported it without amendment and submitted a report (No. 1360) thereon.

ENROLLED BILL PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on March 28, 1940, that committee presented to the President of the United States the enrolled bill (S. 1955) to authorize the Secretary of Agriculture to delegate certain regulatory functions.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BONE:

S. 3686. A bill to authorize the Legislature of the Territory of Alaska to create a public corporate authority to undertake slum clearance and projects to provide dwelling accommodations for families of low income and to issue bonds and other obligations of the authority for such purpose, and for other purposes; to the Committee on Territories and Insular Affairs.

By Mr. LUCAS:

S. 3687. A bill for the relief of Esther Cottingham Grab; to the Committee on Foreign Relations.

S. 3688. A bill for the relief of Frank O. Lowden, James E. Gorman, and Joseph B. Fleming, trustees of the estate of the Choctaw, Oklahoma & Gulf Railroad Co.; to the Committee on Claims.

By Mr. LEE:

S. 3689. A bill for the relief of Aud R. Hopewell; and

S. 3690. A bill for the relief of Elizabeth Dunn Nehring; to the Committee on Finance.

By Mr. GREEN:

S. 3691. A bill for the relief of Carmella Ridgewell; to the Committee on Claims.

By Mr. BARKLEY:

S. 3692. A bill for the relief of Mr. and Mrs. R. F. Claud; to the Committee on Claims.

By Mr. ELLENDER:

S. 3693. A bill to authorize the Secretary of War to grant permission for pipe lines; to the Committee on Military Affairs.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H. R. 9007. An act making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1941, and for other purposes; to the Committee on Appropriations.

H. R. 9016. An act to amend the joint resolution creating the Niagara Falls Bridge Commission; to the Committee on Foreign Relations.

CLAIMS AGAINST THE UNITED STATES—AMENDMENT

Mr. THOMAS of Oklahoma submitted an amendment intended to be proposed by him to the bill (H. R. 8150) providing for the barring of claims against the United States, which was ordered to lie on the table and to be printed.

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT—AMENDMENT

Mr. LA FOLLETTE submitted an amendment intended to be proposed by him to the joint resolution (H. J. Res. 407) to extend the authority of the President under section 350 of the Tariff Act of 1930, as amended, which was ordered to lie on the table and to be printed.

ADDRESS BY SENATOR PEPPER ON UNEMPLOYMENT

[Mr. PEPPER asked and obtained leave to have printed in the RECORD a radio address on the subject of unemployment, delivered by him on March 23, 1940, which appears in the Appendix.]

REPORT OF BAR ASSOCIATION OF NEW YORK ON ADMINISTRATIVE PROCEDURE BILL

[Mr. MINTON asked and obtained leave to have printed in the RECORD the report of the committee on administrative law and on Federal legislation of the association of the bar of the City of New York on Senate bill 916 and House bill 4235, relative to Federal administrative procedure, which appears in the Appendix.]

UNEMPLOYMENT OUR GREATEST PROBLEM

[Mr. O'MAHONEY asked and obtained leave to have printed in the RECORD an editorial from Labor of the issue of March 26, 1940, and an editorial from the same publication of the issue of July 25, 1939, on the subject of unemployment, which appear in the Appendix.]

ADDRESS BY HON. JOHN A. MATTHEWS

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD a radio address delivered by Hon. John A. Matthews, LL. D., on February 18, 1940, which appears in the Appendix.]

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

The Senate resumed the consideration of the joint resolution (H. J. Res. 407) to extend the authority of the President under section 350 of the Tariff Act of 1930, as amended.

Mr. ADAMS. Mr. President——

The VICE PRESIDENT. When the Senate took a recess yesterday the Senator from Colorado [Mr. ADAMS] had the floor and expressed a desire to continue this morning. The Chair recognizes the Senator from Colorado.

Mr. ADAMS. Mr. President, I have no illusion that I can contribute anything to this debate, or that I can say anything that has not already been better said, but I have felt, for various reasons, that I should make a statement upon the matter and an analysis of the situation as I see it. One reason that prompts me to do so is the fact that when the joint resolution shall have been passed the mouths of Senators will then be substantially stopped, and trade agreements will pass out of our control, so that whatever we may have to say we will have to say now.

Mr. President, the question involved is far greater than one of profit; it is far greater than one of dollars and cents. In my own opinion—I speak for no one else—the support of the measure now pending involves lack of faith in and disapproval of fundamentals of the American Constitution. I am unable to reconcile for myself support of this measure with a firm faith in the fundamentals of our Constitution. The founders of our Government intended that the taxing power should not only be vested in but should be exercised by the Congress. The same history and experience which led the fathers to this conclusion also led them to conclude that the Congress should have reposed in it the control of foreign commerce.

I have gathered from some discussions on the floor and in the cloakroom that an impression prevails in some quarters that the regulation of foreign commerce is an executive function and not legislative; but the Constitution specifically puts the taxing power and the power to regulate commerce in the Congress.

Article I, section 1, of the Constitution says:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

There are those who seem to think there are some bodies other than the Senate and the House of Representatives which are vested with legislative powers; but the Constitution definitely and specifically confers upon the Senate and House of Representatives all legislative powers. No legislative powers are vested in any department or in any individual other than these two bodies.

Article I, section 8, of the Constitution says that—

The Congress shall have power to lay and collect taxes, duties, imposts, and excises.

No power to levy taxes or tariffs is vested anywhere except in Congress.

In Congress is exclusively vested the power to regulate commerce with foreign nations and among the several States.

Whether a tariff is to raise money to pay the debts and provide for the common defense and general welfare of the United States, or is for the purpose of regulating commerce, or combines the two functions, it is exclusively legislative and congressional.

Tariff laws cannot be amended or repealed except by Congress, except perhaps by a treaty.

Congress cannot delegate its legislative powers.

These are elementary statements I am making. They lie at the foundation of such argument as I have to make, and they are not disputed.

Congress cannot delegate to the President the power to amend, revise, or repeal tariff laws, or regulate foreign commerce.

What is attempted in this joint resolution? It is attempted to delegate to the President certain great powers—powers of taxation and power to regulate commerce. What is the form of the delegation? Certain purposes are recited in the act, and then it says that whenever the President "finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States," he may enter into trade agreements.

The power which the act gives to the President to enter into foreign trade agreements depends, in accordance with the act, upon his own finding. The President decides when he is to have power to enter into foreign trade agreements. He makes a finding of fact. He is required to do so. In every single instance, I think—I have examined practically all of the trade-agreement treaties—the President makes this statement in line with the general statement of the law.

The following, for instance, is quoted from the agreement with the Netherlands, and I think it is identical with all the others. It says:

Whereas I, Franklin D. Roosevelt, President of the United States of America, have found as a fact that certain existing duties and other import restrictions of the United States of America and the Kingdom of the Netherlands are unduly burdening and restricting the foreign trade of the United States of America, and that the purpose declared in said Tariff Act of 1930, as amended by said act of June 12, 1934, will be promoted by a foreign trade agreement between the United States of America and Her Majesty the Queen of the Netherlands—

Then he goes on to say "by reason of this, I enter into a foreign trade agreement," which follows.

There is not a finding in any of these instruments of any specific duty or any specific article which lays the groundwork of the undue burdening of commerce. The President in each instance simply makes a general finding in the words of the statute. Then, having made the finding, having by virtue

of his own finding in the most general terms taken upon himself the power to enter into foreign-trade agreements, what is done? Do the agreements point out, any more than the President points out, the particular duties or rates which are unduly burdening interstate commerce? No; but in each instance a general tariff revision is undertaken.

To me it is curious that, while the foundation of the power under the law is that certain duties are unduly burdening interstate commerce, yet the law gives to the President the power to continue in effect duties. In other words, an act for the purpose of correcting duties gives the power to continue, should he wish, those very duties. We can understand, perhaps, the power to change, but the power to continue is another matter.

The act goes on, after the trade agreements are made:

> The President may at any time terminate any such proclamation in whole or in part.

And there is no specification of cause or occasion upon which he shall exercise that power.

If we were to concede the validity of the power to make the agreement, which is a process of lawmaking, by what process can we deduce a rule, a standard of delegation, when the President is given unqualified authority to rescind the law which has been made, with no specification of occasion or purpose, but simply a naked authorization?

Mr. WHITE. Mr. President, would the Senator care to yield?

Mr. ADAMS. I am very glad to yield.

Mr. WHITE. I do not want to interrupt the Senator if it is not entirely agreeable.

Mr. ADAMS. I am merely under a little pressure of time, but I shall be very glad to yield.

Mr. WHITE. I understand the Senator's contention to be that the authority of the President exists only when he finds that a specific duty is unduly burdening commerce. Is that correct?

Mr. ADAMS. Yes.

Mr. WHITE. And when he undertakes to say that an article on the free list shall be bound indefinitely on the free list, he is not finding that the absence of duty in that instance is unduly burdening interstate or foreign commerce. Is that correct?

Mr. ADAMS. And, of course, I say to the Senator that there is a finding of fact that certain duties are unduly burdening commerce, but there is no specification as to what the articles or the items are. Then there is no limitation upon the President as to the changes he may make in the schedules. He may have entered into the negotiations upon the theory that a certain item was the basis of discrimination burdening commerce; but, having made that finding, he proceeds to enter upon a process of tariff bargaining without limitation as to the subjects to be taken up, and only a limitation as to the amount of change which he may make.

Mr. WHITE. But if he freezes a duty, he is either continuing something that burdens commerce, which the statute says he shall remove, or——

Mr. ADAMS. When he freezes a duty he says to the Senator from Maine and 95 other Senators, and 435 Representatives, "You no longer have any right to legislate on this article. I have given up your right to legislate on this article for the period for which this trade agreement lasts unless I see fit to change it."

Mr. WHITE. And that action is not predicated upon or does not rest upon the power to remove abuses; otherwise he would not have continued the duty.

Mr. ADAMS. It rests upon that power, but it goes away beyond the necessity for correcting the abuses.

As I have tried to show the Senate, amendments to a tariff act can be made only by a legislative act. I am eliminating the treaty phase of the matter. A tariff act is a law. Nothing other than an act of governmental authority equal to it can amend it.

Mr. HATCH. Mr. President, will the Senator yield at that point?

Mr. ADAMS. Certainly.

Mr. HATCH. In the view the Senator is now expressing, in eliminating the treaty theory——

Mr. ADAMS. I am coming to that.

Mr. HATCH. I will not anticipate the Senator, then. I will wait until he reaches that point.

Mr. ADAMS. It is recognized that Congress may pass an act setting out the law and delegating the process of enforcement. Now I think I shall read just a paragraph or two from the brief filed by the supporters of the agreement in the hearings. The case of Field against Clark is commonly the basic case. I am not going back to the case of the brig *Aurora;* but in Field against Clark the Supreme Court of the United States said—and it is conceded to be the basic doctrine; I think there is no question about it—

> That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.

The Court proceeds to point out in the particular case that—

> As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was simply in execution of the act of Congress. It was not the making of law. He was the mere agent of the law-making department to ascertain and declare the event upon which its expressed will was to take effect. It was a part of the law itself as it left the hands of Congress that the provisions, full and complete in themselves, permitting the free introduction of sugars, molasses, coffee, tea, and hides from particular countries should be suspended in a given contingency, and that in case of such suspensions certain duties should be imposed.

That, I think, is the undisputed law. What is it that is relied upon to justify the delegation of authority in this act? The Trade Agreements Act contains this statement of purpose:

> For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of goods into the United States.

Those are the purposes specified, and they are relied upon as laying down a standard or rule, or, as stated in the Hampton case, an intelligible principle.

The distinguished Senator from Georgia [Mr. GEORGE], if I recall correctly, yesterday emphasized the statement in the Hampton case that there should be an intelligible principle, that that was required, and that the adoption of the method of reciprocal-trade bargaining would constitute such a principle.

In the Hampton case the court, in its specification of the statement as to an intelligible principle, adds this, which greatly qualifies the statement:

> If Congress shall lay down, by legislative act, an intelligible principle to which the person or body authorized to fix such rate is directed to conform, such legislative action is not a forbidden delegation of legislative power.

When the court uses the term "intelligible principle" it means, of course, an applicable principle, one which will serve as a formula in working out tariff changes. It cannot be merely what we might designate as an intelligible principle on some remote matter, some hope, some desire, but it must be a principle which can be applied to the particular problem of fixing the rates, and, as the court says, "to which the person or body authorized to fix such rate is directed to conform."

My studies have failed to show to me the existence of a rule, a standard, an intelligible principle, in the Reciprocal Trade Agreements Act, binding or directing the President in the making of reciprocal-trade agreements. He is expected to enter into reciprocal-trade agreements in order that he may effectuate certain great purposes, which could well be reduced to the statement "to promote the general welfare." If we delegate authority to the President to do an act of this

kind whenever he thinks, after consideration of existing facts, it will be in the interest of the public welfare, we abandon the principle prohibiting the delegation of legislative authority by the Congress. I think that is the situation.

Mr. President, as to the standards, the case of the *Panama Oil Co.* v. *Ryan* (293 U. S.) has been quoted repeatedly. In that case the Supreme Court of the United States expressed its opinion upon the question of standards. That is not parallel with the case before us, but in that case the Court expressed its opinion upon the question of standards, I think, rather clearly. It quotes, first, the bases upon which the President could act, and it says:

> We turn to the other provisions of title I of the act. The first section is a "declaration of policy."

As in the case before us—

> It declares that a national emergency exists "which is productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce—

Similar phrases to what we have heard in connection with the issue before us—

> affects public welfare, and undermines the standards of living of the American people." It is declared to be the policy of Congress "to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof"; "to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups"; "to induce and maintain united action of labor and management under adequate governmental sanctions and supervision"; "to eliminate unfair competitive proctices; to promote the fullest possible utilization of the present productive capacity of industries; to avoid undue restriction of production (except as may be temporarily required); to increase the consumption of industrial and agricultural products by increasing purchasing power; to reduce and relieve unemployment; to improve standards of labor; and otherwise to rehabilitate industry and to conserve national resources."

The Court then said:

> This general outline of policy contains nothing as to the circumstances or conditions in which transportation of petroleum or petroleum products should be prohibited.

The Court further said:

> The Congress left the matter to the President without standard or rule, to be dealt with as he pleased. The effort by ingenious and diligent construction to supply a criterion still permits such a breadth of authorized action as essentially to commit to the President the functions of a legislature rather than those of an executive or administrative officer executing a declared legislative policy.

As I have said, I have been unable in my study to find any rule, any standard, any formula, which controls or directs or guides the President in his negotiation of reciprocal-trade agreements. When the President finds as a fact that certain duties, either of the United States or of a foreign government, are undoubtedly burdening commerce, he may act. Of course, the purpose of the imposition of duties by foreign governments is to burden commerce, to an extent; the purpose is to protect their internal markets, as we do ours. Whenever the President finds that any duties are burdening foreign commerce, then by making a finding himself he has for himself the power to make reciprocal-trade agreements, without limitation as to subjects, within the 50-percent limit as to rates.

What authority is left to the President when he makes such a finding? He is to select the items to be considered. There is no control of any kind even suggested in the act as to what item shall be included in a reciprocal-trade agreement. Second, he shall fix the rate. What is there to a tariff law but the articles to be named and the rates to be fixed? In other words, the whole body, substance, and soul of the making of a Tariff Act is delegated to the President, with one restriction only; that is, as to the extent of the change he may make in a rate.

I am unable to conceive of a clearer delegation of legislative authority; and, mind you, Mr. President, every single item in a reciprocal-trade agreement is an amendment of an existing law, involving the change of a rate here or there. Every item is a repeal or an amendment of an existing law. So we have the President, under a direction for a fine purpose, made the legislative body of this country.

In my judgment, when the President made these treaties, he made the law; he exercised legislative power. We know from the group of 22 treaties that there has been a general revision of the tariff laws of the United States. The tariff rates on more than 1,000 items have been changed in the 22 trade agreements, many of them minor items, most of them not justifying the contention that they individually burdened interstate or foreign commerce. There has been put into effect a theory, an economic theory, a tax theory, not a theory of this body, not a theory of the Congress, but the tax theory of a very distinguished, a very able, a very earnest, a very honest man.

Mr. President, I find no fault with the Secretary of State. He is carrying out a program, as he should be expected to, which he honestly believes to be for the welfare of his country. When he was a Member of the Congress of the United States, the Congress declined to a large extent to accept his theories as to tariff matters. Now, no longer responsible to a popular vote—and we know that as a practical matter he is making reciprocal-trade agreements—he is putting into effect his own economic theories. I do not criticize him. He believes they are for the welfare of our country. The criticism is of the Senate, and the body at the other end of the Capitol Building, that have sought to give away their authority in respect to tariff matters. I do not criticize any man for using the power that is given to him, and I know it is human to reach out for increased power.

Mr. President, a tariff agreement itself changes the tariff law. That is not particularly material. The President does not himself change the American tariff law, but it is the combined effort of the United States with Great Britain or the Netherlands or Brazil, by a two-party agreement, which changes the law. Not only have we delegated our authority in this respect to the President, but the foreign nations involved are participating in making the instruments. The President merely proclaims the changes in the law which are made by two-party agreements. The schedules are specifically made part of the agreements. The schedules are contained in every agreement, and reference is made to the pages and paragraphs of the tariff law. So the Queen of the Netherlands, for instance, and Cordell Hull, are by an agreement changing the American tariff laws. We may say that is not a delegation of legislative power. I suppose we have the right to make some delegation to the Queen of the Netherlands or to the President of Brazil if we desire to do so.

Mr. President, my theory is that these agreements, as they are set up, are legislative in their character. They change the law. Under the Tariff Act of 1890, coffee, for instance, was admitted to the United States free of duty. There was a provision in the tariff law that if the President should find that the tariff rates imposed by Brazil were unequal and unreasonable, it was his duty to suspend the provision for the free admission of coffee. He made the finding; he suspended the free list, and coffee became subject to a duty of 3 cents a pound. When the importer found that the duty on coffee was 3 cents a pound, instead of being on the free list, he did not have any trouble in finding out how or why it was done. The duty was fixed in the very letter of the law, which provided that if the President found discriminations, he should take coffee from the free list and impose a duty of 3 cents a pound. In other words, the provision with respect to the change of coffee from the free list, and the imposition of a duty, and the rate of duty of 3 cents a pound, were fixed in the law, and Brazil had nothing to say about it. We were then making our own tariff laws.

Today we would have to negotiate with Brazil about the matter. What I mean particularly to impress upon the Senate is that at that time the law contained the definition of the two vital things, both of which are lacking in the trade-agreements law.

In the subsequent act, the flexible tariff law, it will be found that a provision was made for the adjustment of duties according to a standard What was the standard? The standard provided that the difference in cost at home and abroad should be equalized by the tariff. The President had

no authority to make a change until the Tariff Commission had investigated and reported to him what the difference was between the cost at home and abroad, and then he could only declare and act upon the subject which had been investigated, and in accordance with the rates recommended by the Tariff Commission. That provision was upheld, and the Court, I think, very properly said there was an intelligible principle. There was a purpose and a formula. In the Trade Agreements Act there is a collection of purposes—not a single purpose but a collection of purposes—and no formula. No person knows and no person can know what products are to be used as a basis for reciprocal-trade agreements. No person knows what the changes may be. There is no formula provided. There is no specification by which the changes can be anticipated.

Of course, there is a committee on reciprocal trade agreements information, or something like that, which is made up of very learned men, who secured their places by appointment, who have never gone through the fire of securing public approval. I have been before that committee with other Members of the Senate. One could not ask for a more courteous body than this group of men, who sit and listen perhaps to what is said. There is a room full of people, perhaps 75 or 100 persons in the room at one time, all anxious to be heard the same morning. Of course, a Senator is given preference. He will be heard first, but heard not by those to whom the authority has been delegated and not by men who are in any way responsive to the people. Those to whom he speaks are putting into effect their theories of tariff making, utterly regardless of what Senators—I will not say all Senators, I will say what many Senators—may think.

Mr. President, by this act we have turned over authority to the President and the Secretary of State to go out into the world of trade and make any deal they may think best. That is the principle of reciprocal-trade agreements. It seems that our State Department may go out in the world and negotiate. It may say to a foreign nation, "If you will reduce your duty on a certain article, we will reduce our duty on some other article." That is stated to be an intelligible principle upon which they are justified in exercising the power of fixing rates. Of course, those who do the work cannot do anything other than what Congress has authorized them and told them to do. We cannot tell them to make the law; but we have told them to negotiate trade agreements, and they have done so. The question also before the Senate today is whether or not other bodies, other groups, shall exercise the power delegated by the Constitution to the Congress of the United States.

Mr. President, as I have said, it is not a matter of dollars and cents, it is not a matter of profit, but it is a matter of fundamental principle. The question is whether or not the Senate believes in the Constitution. If we do not like it, we have a way of amending it. If we believe in it, I think we should abide by it.

With what are the hearings filled? They are filled with statistics and statements concerning economic benefits which may result from taking certain steps. I am not disputing the information contained in them. I am not opposed to the reciprocal trade agreement method. I think the bargaining method is all right. I do not want to see a recurrence of logrolling, but I am not particularly enthusiastic about having logrolling merely removed from the Senate to the State Department. That is what is happening.

All that I think should be done is to let the negotiators from the executive department go out and see what they can do. They are our agents. But they do not want to come back to their principal for his approval. They want to be an agent with final authority and have almost a contempt for their principal.

Mr. President, the fact that motives are good and results are profitable does not make delegation valid.

How do these agreements work? I will give an illustration or two. I shall speak of some things about which I know. One of them is sugar. Under the flexible provision of the Tariff Act the President, after having received a statement from the Tariff Commission that the duty did not equalize the difference in cost at home and abroad, following the recommendation of the Tariff Commission, reduced the duty on Cuban sugar from $2 to $1.50, thereby putting Cuba and America upon an equal basis as to sugar production. Then a reciprocal-trade agreement was made with Cuba, and the President reduced the duty 60 cents below the rate fixed by himself, on the basis of equalizing the cost of production at home and abroad.

Let me ask the Senate whether that complies with the law? Why are these things done? What is the purpose? The purpose is to restore the American standard of living. Was the American standard of living restored by reducing, as occurred necessarily, the wages in the sugar-beet fields?

Again the purpose is to increase the purchasing power of the American public. Is that accomplished by striking down an industry? Does that result in increasing the purchasing power of the American public?

Another purpose—and this is a good one, Mr. President—is to establish and maintain a better relationship among various branches of American agriculture, industry, mining, and commerce. The price of sugar has been cut in order to establish better relationships. That is the standard which is laid down, by which the President determines that sugar should be dealt with in an agreement, and that the tariff should be reduced 60 cents. These purposes do not fix the standards and they are not accurate.

Mr. President, I am trying to observe the understanding which I have with the very distinguished Senator from Tennessee [Mr. McKELLAR].

Again speaking of something with which I am familiar, take cattle as an illustration. After the American stock raiser has killed 8,000,000 head of his stock because his ranges were overstocked, we admit from Canada 200,000 large-size animals and 100,000 of another kind. We reduce the duty on dairy stock; we reduce the duty on cheese; we reduce the duty on lumber, on shingles, on potatoes, and on metals, all for the purpose of increasing employment in America, restoring the American standard of living, and increasing American purchasing power. Those are fine purposes, but in no way connected with the things which are done. I am saying this merely to illustrate that no formula is set out in the act which in any way determines the President's course, and he is left as an untrammeled legislative agent to make the law.

There has been some comment about treaties. If these agreements are treaties, they may, of course, be negotiated without the authority of Congress. Congress does not have to authorize the President to negotiate treaties. However, as the Constitution provides, the taxing power is held in Congress. The power to regulate foreign commerce is a congressional power. The Constitution provides that while the President may negotiate treaties, they shall not become valid until approved by two-thirds of the Senators present. In other words, in the legislative body was vested the final word on taxes, on interstate and foreign commerce, and on making treaties.

In the case of treaties there is no question of delegation of power. A treaty may include as wide a field as the treaty makers see fit. The question of delegation of power applies only to the legislative act. If an agreement comes in as a treaty, questions of delegation of power are eliminated. Treaties may be eliminated as to the past, because if trade agreements are treaties there are 22 void treaties, since no one of them has been ratified by the Senate.

Of course, the sponsors of the joint resolution say that the agreements are not treaties. That is a necessary premise for them to take, because the agreements are void if they are treaties. Necessarily, the sponsors have to say that they are not treaties. If they are not treaties, then the only source of authority for their execution is congressional power, legislative power; and their execution must be pursuant to a valid delegation of power in the execution of a law enacted by Congress, in which the whole framework of the law is set out, only the details being left to the agents.

An effort has been made to recognize a certain new legal creature. We speak of "executive agreements." In the executive field we may have a perfectly proper executive agreement, entered into by the President, which does not require authority from Congress. As the Commander in Chief of the Army and Navy, he may make agreements in many fields. If the executive agreement is to render effective the reciprocal-trade agreements, they must come back, not into the executive field but into the legislative field. They must be sustained. However, in the briefs which have been filed and in the arguments which have been made a sort of hybrid has been created under the name of "executive agreement."

Executive agreements are enough like treaties to escape the constitutional objection to the delegation of legislative power; and they are enough like legislative authority to avoid ratification as treaties; that is, the executive agreements go down the middle of the road, escape the requirement for ratification as treaties, and escape the doctrine of delegation of power. But they must stand, if at all, upon the legislative basis. The mere fact that they are called executive agreements does not change the fact. So I think the executive-agreement theory does not add anything to them. If they are treaties, they must be ratified. If they are not treaties, they must have the fundamental legislative authorization, which must not be in excess of the delegation.

I think the situation resolves itself into certain rather definite points. As I have said, we are seeking to give an agent authority. Every particle of authority which the Secretary of State and the President exercise in connection with these agreements comes from the Congress. They act as the agents of the Congress. In the execution of trade agreements they have no authority from any other source. Again I am eliminating the question of treaties, because, of course, if the agreements were treaties, they would have to be ratified. For the purpose of this discussion, treaties are out. However, a number of Members of this body regard these instruments as treaties. I think the argument of the senior Senator from Nevada [Mr. PITTMAN] to the effect that they are treaties has not been answered. But there is no need of our further debating that phase of the question.

What is the situation? What do our agents in the execution of these agreements say about us? They object to having the reciprocal-trade agreements submitted to Congress to obtain from the Congress authority to make them. The Secretary of State said, at page 35 of the House hearings:

> I think the first time an agreement came up for approval, there would remain, after the Senate got through, neither the shadow nor the substance.

That is the compliment which the Secretary of State pays this body. If he, as our agent, should come to us and submit to us the work which he has done under our authorization, we would tear it apart.

Mr. Grady, First Assistant Secretary of State, in charge of these agreements, says:

> If ratification were required it would be a complete black-out. Ratification is tantamount to repeal.

Such statements are nothing less than a gross reflection upon the character and capacity of the Senate of the United States. Senators may "take it" if they like it. Whenever they vote to pass the joint resolution, they accept the statements which have been made that we are not competent to exercise the powers which the Constitution vested in us. That is the premise of the argument.

Mr. President, I am one of those who believe that if a good treaty or a good agreement were submitted to us it would be ratified by the Senate, and that if it were not a good one it ought not to be ratified. I think the passage of the joint resolution involves a repudiation of the fundamentals of our Government. I am speaking only for myself. No one else need agree with me. However, I could not vote for a measure which is founded upon the premise that if the work of our agents were submitted for approval we would so tear it apart that neither shadow nor the substance would remain. It has been said throughout the land that ratification means wrecking the reciprocal-trade agreements.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. ADAMS. Certainly.

Mr. O'MAHONEY. The charge has been made over and over again that if the principal, which is the Congress, should be given the opportunity to pass upon the work of the agent, which is the executive arm to which the delegation of power is made, the principal would not only wreck the work of the agent, as the Senator has pointed out, but would also engage in unseemly logrolling. Is it not a fact that if the agreements were to come to the Senate for ratification as treaties they would have to be passed upon as units, and that it would be impossible to deal with specific items and engage in the logrolling practice which has been denounced?

Mr. ADAMS. The Senator is absolutely correct. There has been the most unfair propaganda on that subject. There has been an effort to say to the country that the Senate would engage in unseemly logrolling if trade agreements were submitted to it. As a matter of fact, when the Secretary negotiates each individual item, he is engaged in what? In trading. What is logrolling? It is trading. He is engaged in trading. All that would be left to the Senate of the United States if a trade agreement should be submitted to it would be to say we approve or we disapprove of the agreement as a whole. We could not amend it. We would accept it or reject it. In other words, it seems to be proper to translate logrolling into the executive field, but improper to permit Senators from the individual States to have an opportunity upon the floor of the Senate to represent the people who sent them here in connection with tariff matters.

Mr. O'MAHONEY. Mr. President, is it not a fact that it is impossible for the Secretary of State himself to pass upon all the innumerable items and duties in the innumerable trade agreements that can be negotiated?

Mr. ADAMS. Of course, there are a thousand items included in the agreements already negotiated.

Mr. O'MAHONEY. So that it becomes necessary for the Secretary of State himself to redelegate the power which we now delegate to him.

Mr. ADAMS. That is correct.

Mr. O'MAHONEY. What protection is there to the public of the United States and to the industries of the United States against the possibility of logrolling by the second- and third-degree delegates, so to speak, of our legislative authority?

Mr. ADAMS. Not only is there no protection but I think it is a very definite violation of our obligations. The Constitution vests in us these powers. If we are not competent, what we ought to do is to let somebody else have our place. If the system is wrong, if the Constitution is wrong, let us amend it; let us make the executive the legislative, the taxing power. Strange to say, as the Senator from Wyoming realizes, in the little group that is really making new tariffs there are certain sections of the country which do not seem to be represented, while in this body every section of the country has representation and a spokesman. I refer particularly to a large section of the West which, evidently, is regarded as a sort of stepchild in the economic field. When a trade agreement is negotiated something has to be given or conceded in order to get something. What has been done? I have not wanted to argue the economics of the question, but in my section of the country we have been a source of materials to be traded off in order that something might be obtained. It so happens that the major industries of my section are among those that have been traded off in order that benefits might come to other sections, and without a chance on our part to complain. If such matters were submitted to the Senate, then if the State of Colorado should lose in the discussion and action on the floor, we would have to take it and put up with it; but to be made a victim at the hands of a group of individuals is a little difficult to accept.

Mr. President, the best part of my remarks I will have to defer because the Senator from Tennessee is anxious to proceed. I hope he will recognize that in surrendering the floor to him I am omitting the best part of my speech in order to accommodate him. The remainder of it would be thoroughly persuasive, but if I should take the time he would not be able to speak.

I desire merely to add one suggestion, namely, that if these agreements are treaties they must be ratified; if they are trade agreements, and are not treaties, they should be ratified. If they are proper delegations of authority they do not need ratification; if they are excessive delegations they should be submitted to the Senate. In other words, I think that these agreements should come back to this body for approval, regardless of whether they are valid, regardless of other circumstances. I think we can do no less than to demand the return to the Senate of these agreements for our approval or rejection, regardless of what they may be called, not as a matter of validity necessarily but in order that we may fulfill our obligations. For one, I am not willing to say that an individual in the executive arm of the Government shall have in his uncontrolled discretion the economic welfare of the country; and that is what the present system means. The man who controls the taxing power controls the welfare of the country. We are putting it in a single hand.

I remind Senators who have great confidence in those now in office that the term of office of President Roosevelt and Secretary Hull will end on the 20th of January 1941, and from then on we are legislating for the execution of binding reciprocal-trade agreements by men who will follow them whose theories may be different.

So I cannot understand why Senators should object to having a trade agreement brought to him for his approval. For the life of me, I cannot understand why any Senator should be unwilling to have an opportunity to approve or disapprove fundamental acts such as these are in our economic system. Yet if we pass the joint resolution, I say again, in my judgment, we defy the Constitution; we express our distrust and disapproval of its fundamental provisions; and, what is worse, we admit the charge that is made against us, that the Senate of the United States is not competent to exercise the powers conferred upon it by the Constitution. For myself I am willing to make no such admission.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER (Mr. CHANDLER in the chair). The Chair recognizes the senior Senator from Tennessee.

Mr. McKELLAR. Mr. President, in the spring of 1934——

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Downey	Lee	Schwartz
Ashurst	Ellender	Lodge	Schwellenbach
Austin	Frazier	Lucas	Sheppard
Bankhead	George	Lundeen	Shipstead
Barbour	Gerry	McCarran	Smathers
Barkley	Gibson	McKellar	Smith
Bilbo	Gillette	McNary	Stewart
Bone	Glass	Maloney	Taft
Bridges	Green	Mead	Thomas, Idaho
Brown	Guffey	Miller	Thomas, Okla.
Bulow	Gurney	Minton	Thomas, Utah
Byrd	Hale	Murray	Tobey
Byrnes	Harrison	Neely	Townsend
Capper	Hatch	Norris	Truman
Caraway	Hayden	Nye	Vandenberg
Chandler	Herring	O'Mahoney	Van Nuys
Chavez	Holman	Overton	Wagner
Clark, Idaho	Holt	Pepper	Walsh
Clark, Mo.	Hughes	Pittman	White
Connally	Johnson, Calif.	Radcliffe	Wiley
Danaher	Johnson, Colo.	Reed	
Davis	King	Reynolds	
Donahey	La Follette	Russell	

The PRESIDING OFFICER. Eighty-nine Senators have answered the roll call. A quorum is present.

May the Chair request that conversation on the Senate floor and in the galleries be suspended so that the Senate may listen to the discussion? The Senator from Tennessee has the floor.

Mr. JOHNSON of Colorado. Mr. President, will the Senator from Tennessee yield to enable me to put something in the RECORD?

Mr. McKELLAR. My time is very limited, and I have yielded a great deal; but I yield to the Senator from Colorado.

Mr. JOHNSON of Colorado. I ask unanimous consent to place in the RECORD as a part of this debate a letter addressed by me to the Senator from Mississippi [Mr. HARRISON], in which I reply to a letter written by Secretary Hull to the Senator from Mississippi on March 27.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 29, 1940.

Hon. PAT HARRISON,
United States Senate, Washington, D. C.

DEAR SENATOR HARRISON: On March 27 Secretary Hull, in a letter addressed to you which you had inserted in the RECORD, paid me the honor of referring to a statement made by me on the previous day. I do not desire to provoke a controversy, but certain points raised by the Secretary do require an answer.

In the statement referred to by the Secretary I asserted that the supplemental agreement with Cuba signed on December 18, 1939, deprived domestic producers of an important protection afforded them under the original Cuban trade agreement. Since December 18 the tariff on Cuban sugar remains at 90 cents a hundred pounds whether or not quotas are in effect. Originally we had either quotas or tariff protection. No longer is that true. Mr. Hull did not question the accuracy of that statement.

I also stated that the domestic sugar producers during periods of suspended quotas must submit to unrestricted competition of Cuban sugar admitted at a pitifully low, inadequate, and insufficient rate of tariff and must continue to pay the processing excise tax.

Mr. Hull complains that during the period of suspended quotas when tariffs were restored to the rate established by the United States Tariff Commission to offset the actual difference in the cost of production, proportionately less sugar from Cuba entered the United States. This seems to prove that tariffs are more effective than quotas in protecting domestic sugar if it proves anything.

When the quotas were suspended and the tariff was restored, the Cuban sugar interests did not dump their sugar surplus. They had a better plan; they began a vigorous drive on the State Department for a lower tariff. They were not satisfied with quota suspension alone; they sought a suspended quota and a low tariff, and on December 18, 1939, the State Department granted them exactly what they sought. On the floor of the Senate on March 26, Senator ELLENDER dramatically pointed out how the Cuban sugar interests took advantage of the President's proclamations.

From January 1 through August 31, 1939, Cuba sent to the United States 2,113,848,773 pounds (roughly 1,057,000 short tons) of sugar. This, according to Senator ELLENDER, is an average of 260,000,000 pounds (130,000 short tons) a month. From September 1 to September 11, the period immediately preceding the suspension of the quotas, and the period in which the rapid advance in prices occurred, Cuba dumped 531,550,322 pounds (265,000 short tons) of sugar into our markets. In other words, in this brief period she doubled the rate of her shipments to this country, and all of that sugar, of course, benefited by the higher price and the 90-cent tariff.

But what happened when the quotas were suspended by the President in order—quoting Secretary Hull's letter—"to make larger supplies available"? What happened was that Cuba drastically cut the rate of her sugar shipments to the United States and waited for a reduction in the duty to take place. In the period from September 12, the day after the quotas were suspended, until December 26, when the lower rate of duty again became effective, Cuba sent us only 531,141,282 pounds (265,570 short tons) of sugar, or an average of about 106,000 tons a month.

Happily, from the Cubans' viewpoint, the President on December 26 gave notice that quotas would be restored on January 1, and in the period from December 26 to the end of the year all Cuban sugar was admitted at the 90-cent rate. Cuban producers no longer exhibited any reluctance to enter the American market. Indeed, it was exactly the thing they had been waiting for. And in that brief period they entered—so Senator ELLENDER's statistics show—568,156,174 pounds (285,000 tons) of sugar. On this amount of sugar Cuba saved and the United States Treasury lost about $3,400,000 in tariff duties.

Secretary Hull complains that the increase in the rate of duty was "to reduce our imports of Cuban sugar very substantially." It is true, as the citations above demonstrate, the Cuban sugar imports were below normal, while Cuba was waiting for a reduction in the tariff. But it is wholly inaccurate to imply that there was any important reduction in the total amount of sugar which Cuba supplied to us during 1939. By dumping her sugar into our markets in the 2 weeks before the duty was increased, and again in the 5 days after the duty was reduced, Cuba managed to send us 1,930,221 short tons against an original quota of 1,932,343 tons. This is a difference of 2,122 tons, or about one-tenth of 1 percent. I do not agree with Secretary Hull that that is a "very substantial" reduction in Cuba imports.

On the other hand, if we accept the statement that the increase in the rate of duty "very substantially" reduced Cuban exports to the United States, Mr. Hull is still further from proving his position.

Secretary Hull, in his letter of March 27 to you, suggests that I should agree that it was right and equitable that the American public should be protected by lowering sugar tariffs during periods of quota suspension. I cannot agree that the concession in tariff rates made to Cuba on December 18, 1939, was either justified or equitable on any basis whatever. The price flurry in September

caused by the war had almost completely subsided more than a month prior to the signing of the supplementary agreement on December 18, 1939, which reduced the tariff 60 cents.

Retail prices which resulted from the war scare were short lived. On September 15 the average retail price of sugar, as reported by the Bureau of Labor Statistics of the Department of Labor, was 6.4 cents a pound. In each of the weeks that followed the price became lower and lower, and today the price is back to 5.3 cents, or within a fraction of a cent of the depressed price which prevailed for 18 months prior to September 1. If it is true that Cuban imports of sugar were "very substantially" reduced, then it must be perfectly clear that the progressive decrease in prices is not to be credited to Cuba's making greater supplies available. The only explanation of the lowered prices is that the domestic sugar industry drew upon its reserves and made sugar available at declining prices during a period when Cuba was unwilling to do so. Certainly this is the kind of protection the consumer can understand. It is the kind of protection for the consumer which the domestic sugar industry has provided ever since it has been able to offer effective competition to Cuba and other foreign sugar producers. It is a type of protection beside which Mr. Hull's tariff theories are pale and impotent.

Sincerely yours,

E. C. JOHNSON.

Mr. SCHWELLENBACH. Mr. President——

Mr. McKELLAR. I yield to the Senator from Washington.

Mr. SCHWELLENBACH. I do not intend to take the time of the Senate to discuss the pending amendment, further than to say that it presents only one question; that is, whether or not, under the Constitution, agreements negotiated under the Trade Agreements Act are treaties. If they are not treaties, then clearly the amendment offered by the Senator from Nevada [Mr. PITTMAN] is not a proper amendment. I have concluded that they are not treaties.

I ask unanimous consent to have printed in the RECORD at this point, as part of my remarks, a quotation from the book entitled "Treaties, Their Making and Enforcement," by Crandall; one from Forty-sixth Yale Law Journal; one from Two Hundred and Ninety-seventh United States Reports; one from Two Hundred and Ninety-ninth United States Reports; and one from Three Hundred and First United States Reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

[From Treaties, Their Making and Enforcement (2d ed.), by Samuel B. Crandall, Ph. D., p. 121]

CHAPTER IX.—AGREEMENTS REACHED BY THE EXECUTIVE IN VIRTUE OF ACTS OF CONGRESS

SEC. 62. Navigation and commerce: The act of March 3, 1815, declared a repeal of so much of any act as imposed discriminating duties against the vessels, and the products of the country to which the vessel belonged imported therein, of any country in which discriminating duties against the United States did not exist, the President to determine in each instance the application of the repeal.[1] The acts of January 7, 1824, and May 24, 1828, likewise directed the President to suspend by proclamation discriminating duties so far as they affected the vessels of a foreign nation, when possessed of satisfactory evidence that no such discriminating duties were imposed by that nation on the vessels of the United States.[2] Section 11 of the act of June 19, 1886, as amended by the act of April 4, 1888, entrusted duties of similar character to the President.[3] A partial suspension is allowed by the act of July 24, 1897.[4] On the authority of these statutes numerous arrangements have been reached with foreign countries and made operative by proclamation. The evidence accepted by the President as sufficient may be recorded in a note or dispatch or a memorandum of an agreement. The proclamations for the removal of discriminating duties on trade with Cuba and Puerto Rico of February 14, 1884, October 27, 1886, and September 21, 1887, were based on memoranda of agreements with the Spanish Government signed, respectively, February 13, 1884, October 27, 1886, and September 21, 1887.[5]

Section 3 of the tariff act of October 1, 1890, authorized and directed the President, whenever the government of any country, producing and exporting certain enumerated articles, imposed duties or made other exactions on the products of the United States, which, in view of the free introduction of the enumerated articles into the United States, were in his opinion reciprocally unreasonable and unequal, to suspend by proclamation as to that country the privilege of free importation, and to subject the articles in question to certain prescribed discriminating duties.[6] Ten commercial arrangements were concluded and made effective in virtue of this section—January 31, 1891, with Brazil; June 4, 1891, with the Dominican Republic; June 16, 1891, with Spain; December 30, 1891, with Guatemala; January 30, 1892, with Germany; February 1, 1892, with Great Britain; March 11, 1892, with Nicaragua; April 29, 1892, with Honduras; May 25, 1892, with Austria-Hungary; and November 29, 1892, with Salvador. These were all terminated by section 71 of the tariff act of August 27, 1894.[7] Section 3 of the act of 1890, having been assailed as an attempt to delegate legislative and treaty-making powers, was upheld by the Supreme Court in the case of *Field* v. *Clark*. Speaking for the court, Mr. Justice Harlan said: "As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was simply in execution of the act of Congress. It was not the making of law. He was the mere agent of the law-making department to ascertain and declare the event upon which its expressed will was to take effect. * * * The court is of opinion that the third section of the act of October 1, 1890, is not liable to the objection that it transfers legislative and treaty-making power to the President."[8] Section 3 of the act of July 24, 1897, provided not only, as did section 3 of the act of 1890, for the imposition by proclamation of certain differential rates, but also for the conclusion by the President of commercial agreements with countries producing certain enumerated articles, in which concessions should be secured in favor of the products of the United States; and it further authorized the President, when such concessions were in his judgment reciprocal and equivalent, to suspend by proclamation the collection on these articles of the regular duties imposed by the act, and to subject them to special rates as provided for in the section.[9] On the authority of this section the President concluded and made effective the commercial agreements of May 28, 1898, August 20, 1902, and January 28, 1908, with France; of May 22, 1899 (protocol making corrections of January 11, 1900), and November 19, 1902, with Portugal; of July 10, 1900, February 27, 1906, and April 22–May 2, 1907, with Germany;[10] of February 8, 1900, and March 2, 1909, with Italy; of January 1, 1906, with Switzerland; of August 1, 1906, and February 20, 1909, with Spain; of September 15, 1906, with Bulgaria; of May 16, 1907, with the Netherlands; and of November 19, 1907, with Great Britain. Full force and effect has been given to these agreements by the courts;[11] and it has been held by the Supreme Court that such agreements come within the meaning and intent of the word "treaty" as used in the Circuit Court of Appeals Act giving the right of review by direct appeal when the validity or construction of any treaty made under the authority of the United States is drawn in question. Mr. Justice Day, speaking for the Court, said: "While it may be true that this commercial agreement, made under authority

---

[1] 3 Stat. L. 224.

[2] 4 Stat. L. 3, 308; brought forward in Rev. Stat., sec. 4228. See also acts of May 31, 1830, and July 13, 1832, 4 id. 425, 579.

[3] 24 Stat. L. 82; For. Rel., 1888, p. 1859. See for repeal of this section act of August 5, 1909, sec. 36, 36 Stat. L. 112.

[4] 30 Stat. L. 214. See Rev. Stat., sec. 4228.

[5] See as to arrangement with Spain of December 1831, Richardson, Messages and Papers of the Presidents, II, 575; IV, 399. See as to the removal of discriminating duties on vessels of Great Britain, the most important commercial nation, instructions of the Secretary of the Treasury, October 15, 1849. H. Ex. Doc. No. 76, 41st Cong., 3d sess., 46; *Oldfield* v. *Marriott* (10 How. 146). See also Moore, Int. Law Digest, I, 811. See for suspensions of discriminating duties, proclamations dated, as regards Austria, May 11, 1829, June 3, 1829 (Richardson, Messages and Papers of the Presidents, II, 440, 441); Brazil, November 4, 1847 (id., IV, 522); Bremen, July 24, 1818 (id., II, 37); Chile, November 1, 1850 (id., V, 76); China, November 23, 1880 (id., VII, 600); France, June 24, 1822, April 20, 1847, June 12, 1869, November 20, 1869, September 22, 1873 (id., II, 183; IV, 521; VII, 15, 19, 228); Great Britain, October 5, 1830 (id., II, 497); Greece, June 14, 1837 (id., III, 322); Hamburg, August 1, 1818 (id., II, 38); Hanover, July 1, 1828 (id., II, 404); Hawaiian Islands, January 29, 1867 (id., VI, 515); Italy, June 7, 1827, February 25, 1858 (id., II, 376; V, 491); Japan, September 4, 1872 (id., VII, 177); Lubeck, May 4, 1820 (id., II, 73); Mecklenburg-Schwerin, April 28, 1835 (id., III, 146); Nicaragua, December 16, 1863 (id., VI, 215); Norway, August 20, 1821 (id., II, 96); Oldenburg, November 22, 1821, September 18, 1830 (id., II, 97, 496); Portugal, February 25, 1871 (id., VII, 126); Spain, December 19, 1871, February 14, 1884, October 27, 1886, September 21, 1887 (id., VII, 174; VIII, 223, 490, 570); and Tuscany, September 1, 1836 (id., III, 233).

[6] 26 Stat. L. 612.

[7] S. Doc. No. 52, 55th Cong., 1st sess., 2. The provision for free introduction was suspended by proclamation as to various countries.

[8] 143 U. S. 649, 693. See also *Buttfield* v. *Stranahan* (192 U. S. 470, 496) and *Monongahela Bridge Co.* v. *United States* (216 U. S. 177).

[9] 30 Stat. L. 203.

[10] In this last-named agreement the Government of the United States, besides extending the benefits of sec. 3 of the act of 1897, agreed to effect certain changes in the customs and consular administrative regulations. See H. Rept. No. 1833, 59th Cong., 1st. sess.

[11] *Nicholas* v. *United States*, 122 Fed. 892; *United States* v. *Tartar Chemical Co.*, 127 Fed. 944; *United States* v. *Luyties*, 130 Fed. 333; *United States* v. *Julius Wile Bro. & Co.*, 130 Fed. 331; *La Manna, Azema, etc.*, v. *United States*, 144 Fed. 683; *Migliavacca Wine Co.* v. *United States*, 148 Fed. 142; *Mihalovitch, Fletcher & Co.* v. *United States*, 160 Fed. 988.

of the Tariff Act of 1897, section 3, was not a treaty possessing the dignity of one requiring ratification by the Senate of the United States, it was an international compact, negotiated between the representatives of two sovereign nations and made in the name and on behalf of the contracting countries, and dealing with important commercial relations between the two countries, and was proclaimed by the President. If not technically a treaty requiring ratification, nevertheless it was a compact authorized by the Congress of the United States, negotiated and proclaimed under the authority of its President. We think such a compact is a treaty under the Circuit Court of Appeals Act, and, where its construction is directly involved, as it is here, there is a right of review by direct appeal to this Court."[12] In section 2 of the Tariff Act of August 5, 1909, it was provided that whenever and so long thereafter as the President should be satisfied, in view of the concessions granted by the minimum tariff of the United States, that the government of any foreign country imposed no restrictions or exactions of any character upon the importation or sale of products of the United States, which unduly discriminated against the United States or its products, and that such foreign country paid no export bounty or imposed no export duty or prohibition upon exportations to the United States which unduly discriminated against the United States or its products, and that such country accorded to the products of the United States treatment which was reciprocal and equivalent, upon proclamation to this effect by the President, articles from such country imported into the United States or any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila) should be admitted under the minimum tariff.[13] The maximum tariff imposed by the act became effective on April 1, 1910, but prior to that date, 134 proclamations, which practically included the entire commercial world, had been issued by the President applying the minimum tariff.[14] By an exchange of notes, January 21, 1911, between the Secretary of State of the United States and representatives of the Dominion of Canada, an arrangement was reached in which it was agreed that the governments of the two countries would use their utmost efforts to bring about by concurrent legislation certain tariff changes. Such legislation was duly passed by the Congress of the United States, but failed of passage in the Canadian Parliament.[15]

The special acts of August 5, 1854, March 1, 1873, August 15, 1876, and December 17, 1903, to carry into effect, respectively, the conventions for commercial reciprocity with Great Britain of June 5, 1854, and May 8, 1871 (arts. XVIII to XXV and XXX), with the Hawaiian Islands of January 30, 1875, and with Cuba of December 11, 1902, were to be effective only when the President had received satisfactory evidence that the other contracting parties had passed the necessary laws to carry the conventions into effect.[16] Formal protocols were signed June 7, 1873, and May 28, 1874, by Mr. Fish, Secretary of State, and Sir Edward Thornton, British minister, reciting the fact that the laws required to carry into effect the articles of the treaty of May 8, 1871, had been passed, and fixing the date on which the articles should take effect in respect of Prince Edward's Island and Newfoundland. A protocol, containing similar recitals in respect of the operation of the Hawaiian treaty of January 30, 1875, was signed September 9, 1876.

Acts of Congress authorizing and directing the President to apply by proclamation provisions thereof, when possessed of satisfactory evidence that certain conditions have been complied with by a foreign power, are numerous. Section 1 of the act approved June 11, 1864, to give effect to treaties between the United States and foreign nations respecting consular jurisdiction over crews of the vessels of such foreign nations in the waters and ports of the United States, provided that, before the act should take effect as to the vessels of any particular nation having such treaty with the United States, the President should be satisfied that similar provisions had been made by that nation to give effect to the treaty, whereupon proclamation to that effect should be made.[17] The provisions of the act were extended by proclamation, February 10, 1870, to France, Italy, Prussia, and the other states of the North German Union,[18] and May 11, 1872, to Norway and Sweden.[19] Section 2 of the act approved August 5, 1882, as amended by section 10 of the act of February 14, 1903, provides that, whenever it is made to appear to the Secretary of Commerce that the rules concerning the measurements for tonnage of vessels of the United States have been substantially adopted by any foreign country, he may direct that the vessels of such foreign country be deemed to be of the tonnage denoted in their certificates of register, and that thereupon it shall be unnecessary for such vessels to be remeasured at ports of the United States.[20] Formal instruments of agreement for the mutual exemption from remeasurement of vessels of the one country in the ports of the other were executed by the Secretary of State with the Russian minister, June 6, 1884, and with the Danish minister, February 26, 1886. An agreement was reached with Sweden and Norway as to Norwegian vessels by exchange of notes in 1894.[21] Section 4400 of the Revised Statutes, as amended by the act approved March 17, 1906, provides for the reciprocal exemption of steamboats from inspection in case the laws of a foreign country for this purpose are similar to those of the United States.[22] An arrangement for such reciprocal exemption was effected with the Japanese Government by exchange of notes, April 3–November 30, 1906.[23] The act of Congress approved June 19, 1878, as amended by the acts approved May 24, 1890, and March 3, 1893, extended, on conditions of reciprocity to be determined by the President, to Canadian vessels privileges of access to our inland waters in aid of wrecked and disabled vessels. A proclamation of the President to give effect to the provisions of the act was made July 17, 1893.[24] The act of Congress of August 19, 1890, as amended by the acts of May 28, 1894, August 13, 1894, and June 10, 1896, to adopt the international regulations for the prevention of collisions at sea, contained the reservation that the act should take effect at a time to be fixed by proclamation of the President. Such proclamations were made July 13, 1894, and December 31, 1896.[25]

SEC. 63. International copyright: Section 13 of the Copyright Act of March 3, 1891, provided that the act should apply to a citizen or subject of a foreign state only when such state permitted to citizens of the United States the benefit of copyright on substantially the same basis as its own citizens, or was a party to an international agreement which provided for reciprocity in the granting of copyright by the terms of which the United States might at its pleasure become a party. The existence of either of these conditions was to be determined by the President.[26] Under the first alternative, the President extended the benefits of the act by proclamation to subjects of Belgium, France, Great Britain and possessions, and Switzerland, July 1, 1891; Germany, April 15, 1892;[27] Italy, October 31, 1892; Denmark, May 8, 1893; Portugal, July 20, 1893; Spain, July 10, 1895;[28] Mexico, February 27, 1896; Chile, May 25, 1896; Costa Rica, October 19, 1899; the Netherlands and possessions, November 20, 1899; Cuba, November 17, 1903; Norway, July 1, 1905; and Austria, September 20, 1907. Section 8 of the act approved March 4, 1909, to amend and consolidate the acts respecting copyright, provides that the benefits of the act shall extend to a citizen or subject of a foreign state only (a) when an alien author or proprietor is domiciled within the United States at the time of the first publication of his work; or (b) when the foreign state of which the author or proprietor is a citizen or subject grants, either by treaty, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this act or by treaty; or when such foreign state is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party. The existence of these reciprocal conditions is to be determined by the President by proclamation.[29] By proclamation dated April 9, 1910, it was declared that the subjects and citizens of Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and possessions, Italy, Mexico, the Netherlands

---

[12] *Altman & Co.* v. *United States* (1912), 224 U. S. 583, 601. Provision for the termination of these agreements was made in sec. 4 of the Tariff Act of Aug. 5, 1909, 36 Stat. L. 83.

[13] 36 Stats. at L. 82.

[14] Annual message, December 6, 1910, For. Rel., 1910, p. XVI.

[15] Special message of January 26, 1911. Act approved July 26, 1911, 37 Stats. at L. 4.

[16] 10 Stats. at L. 587, 1179; 17 id. 482; 19 id. 200, 666; 33 id. 3.

[17] 13 Stats. at L. 121.

[18] Richardson, Messages and Papers of the Presidents, VII, 84.

[19] Id., 175.

[20] 22 Stats. at L. 300; Rev. Stats., sec. 4154, Supp. I, 379.

[21] For. Rel., 1894, pp. 636–645. "A similar mode of admeasurement having been adopted by Great Britain, Belgium, Denmark, Austria-Hungary, the German Empire, Italy, Sweden, Norway, Spain, the Netherlands, Russia, Finland, Portugal, and Japan, and the like courtesy having been extended to vessels of the United States, it is directed that vessels of those countries whose registers indicate their gross and net tonnage under their present law shall be taken in the ports of the United States to be of the tonnage so expressed in their documents, with the addition of the amount of the deductions and omissions made under such law not authorized by the admeasurement law of the United States." Customs Regulations (1908), 55.

[22] 34 Stats. at L., 68.

[23] For. Rel., 1906, pp. 990–994.

[24] 28 Stats. at L. 1220. See annual message of the President, December 3, 1888, Foreign Relations, 1888, p. XII. See also the act approved February 21, 1893, for the protection of fur seals by international agreement, 27 Stats. at L. 472, Moore, Int. Law Digest I, 920; the act approved March 3, 1887, for retaliation against Canada, 24 Stats. at L. 475; the act approved Aug. 30, 1890, for the inspection of meats, 26 Id. 414, 415; the act approved July 26, 1892, for the enforcement of reciprocal commercial relations between the United States and Canada, and proclamation of August 18, 1892, 27 Id. 267, 1032, Foreign Relations, 1892, p. 339; and the joint resolution approved March 14, 1912, to prohibit the exportation of munitions of war, and proclamation of even date, 37 Stats. at L. 630, 1733.

[25] Richardson, Messages and Papers of the Presidents, IX, 501, 761; 26 Stats. at L. 320; 28 Id. 82; 29 Id. 885. See for agreements in this respect with Great Britain and France, Foreign Relations, 1894, pp. 218–219, 260–274; Foreign Relations, 1895, pp. 683–686.

[26] 26 Stats. at L. 1110.

[27] The proclamation as regards Germany was based upon an agreement signed at Washington by the Secretary of State and the German chargé d'affaires, January 15, 1892.

[28] For restoration of agreement after the war of 1898, see notes exchanged January 29, 1902, November 18 and November 26, 1902.

[29] 35 Stats. at L. 1077.

and possessions, Norway, Portugal, Spain, and Switzerland were entitled, and had been entitled since July 1, 1909 (the date on which the act became effective), to all the benefits of the act, other than those under section I (e), in reference to the reproduction of musical compositions.[30] The benefits of the act, subject to the same exception, were extended to the subjects of the Grand Duchy of Luxemburg by proclamation dated June 29, 1910,[31] of Sweden by proclamation dated May 26, 1911, and of Tunis by proclamation dated October 4, 1912.[32]

SEC. 64. Trade-marks: The United States has entered into various formal treaty stipulations for the protection of trade-marks.[33] Section 1 of the act of February 20, 1905, provides that the owner of a trade-mark, used in interstate or foreign commerce, who is domiciled in the United States or who resides or is located in any foreign country which by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration for such trade-mark by complying with certain designated requirements.[34] Under similar provisions in section 1 of the act approved March 3, 1881,[35] agreements for the reciprocal registration and protection of trade-marks were effected by exchange of notes, February 10 and 16, 1893, with the Netherlands, and April 27 and May 14, 1883, with Switzerland.[36] A declaration for the reciprocal protection of trade-marks was signed July 9, 1894, with the Greek Government by Mr. Alexander, minister at Athens. The American negotiator considered the declaration as merely explanatory of rights already secured under the treaty of 1837 between the two countries. Mr. Gresham, Secretary of State, did not entertain the same view, but considered the declaration as practically a new treaty which could be ratified only with the consent of the Senate.[37] Agreements for the reciprocal protection in consular courts of trade-marks in China were effected by exchange of notes with Belgium, November 27, 1905 (explanatory note of January 22, 1906); with Denmark, March 19–June 12, 1907; with France, October 3, 1905 (explanatory note of January 22, 1906); with Germany, December 6, 1905 (explanatory note of January 22, 1906); with Great Britain, June 28, 1905; with Italy, December 18, 1905 (explanatory note of January 22, 1906); with the Netherlands, October 23, 1905 (explanatory note of January 27, 1906); and with Russia, June 28, 1906. Notes as to protection in consular courts of trade-marks in Morocco were exchanged with Germany, September 28–October 28, 1901; with Great Britain, December 1–6, 1899; and with Italy, June 13, 1903–March 12, 1904.[38] By notes exchanged June 22 and June 26, 1906, an agreement was reached with Denmark as to the protection afforded by the laws of the respective countries to industrial designs or models, in case the articles which they represent are not manufactured in the country where protection is sought.

SEC. 65. International postal and money-order regulations: By section 26 of the general act of February 20, 1792, to establish the post office and post roads, and to prescribe the rates of postage, the Postmaster General was authorized to make "arrangements with the postmasters in any foreign country for the reciprocal receipt and delivery of letters and packets, through the post offices."[39] This provision was textually reenacted in the successive general Post Office Acts of May 8, 1794,[40] March 2, 1799,[41] April 30, 1810,[42] and March 3, 1825.[43] In section 2 of the act of March 3, 1851, to reduce and modify the rates of postage, the Postmaster General was authorized by and with the advice and consent of the President "to reduce or enlarge, from time to time, the rates of postage upon all letters and other mailable matters conveyed between the United States and any foreign country, for the purpose of making better postal arrangements with other governments, or counteracting any adverse measures affecting our postal intercourse with foreign countries."[44] This provision as modified and incorporated as section 167 of the General Act of June 8, 1872, to consolidate and revise the laws relating to the Post Office Department,[45] and brought forward as section 398 of the Revised Statutes reads: "For the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the Postmaster General, by and with the advice and consent of the President, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage on mail matter conveyed between the United States and foreign countries."[46] Section 103 of the act of June 8, 1872,[47] brought forward as section 4028 of the Revised Statutes, likewise authorizes the Postmaster General to conclude arrangements with the post departments of foreign governments, with which postal conventions have been concluded, for the exchange by means of postal orders, of sums of money not exceeding in amount $100,[48] at such rates of exchange and under such regulations as may be deemed expedient. In virtue of these provisions, postal and money-order conventions have been concluded by the Postmaster General with the approval of the President without submission to the Senate. Among these are the General Postal Union Convention signed at Berne, October 9, 1874, and the Universal Postal Union Conventions signed at Vienna, July 4, 1891, at Washington, June 15, 1897, and at Rome, May 26, 1906.[49] It has been held that the provision in article XXV of the regulations attached to the Berne Convention, in which it was declared that no article liable to customs duties should be admitted for conveyance by the post, was the law of the land, and that goods so imported were liable to seizure.[50] Of postal conventions submitted by the President to the Senate for its advice and consent as to the ratification, prior to the passage of the act of 1872, note may be made of those signed as follows: March 6, 1844, with New Granada; December 15, 1848, with Great Britain; July 31, 1861, and December 11, 1861, with

---

[30] The exception was removed as to the citizens and subjects of Germany, Belgium, Norway, Cuba, Great Britain, and the British dominions, colonies, and possessions (except Canada, Australia, New Zealand, South Africa, and Newfoundland), and Italy by proclamations dated, respectively, December 8, 1910, June 14, 1911, November 27, 1911, January 1, 1915, and May 1, 1915.

[31] Exception was removed by proclamation dated June 14, 1911.

[32] The United States is a party to the Convention on the Protection of Literary and Artistic Copyright, signed August 11, 1910, at the Fourth International American Conference. Stipulations for the protection of copyrights are found in various treaties, as, for instance, in the treaty with China of October 8, 1903 (art XI), in the Convention with Japan of November 10, 1905, in two Conventions with Japan concluded May 19, 1908, for protection of trade-marks and copyrights in Korea and China, respectively, and in the Convention with Hungary concluded January 30, 1912. The United States did not accede to the International Copyright Convention concluded at Berne, September 9, 1886. See for report of the delegate to the Berlin Conference of 1908, for the revision of the Berne Convention, H. Doc. No. 1208, 60th Cong., 2d sess.

[33] See S. Doc. No. 20, 56th Cong., 2d sess., 47–54.

[34] 33 Stat. L. 724. See as to patents, act of March 3, 1903, 32 Stat. L. 1225; Rev. Stats., sec. 4887.

[35] 21 Stat. L. 502.

[36] S. Doc. No. 20, 56th Cong., 2d sess., 334, 337.

[37] Foreign Relations, 1895, pp. 759, 763, 765; Moore, Int. Law Digest, V, 196. Mr. Hay, in a letter to the Secretary of the Interior, dated November 4, 1898, said: "My predecessors, Mr. Gresham and Mr. Olney, in instructions to our Minister at Athens (Foreign Relations, 1894, pp. 293–295; and Foreign Relations, 1895, pp. 759–765), took the position that a declaration signed by the Minister and the Greek minister for foreign affairs, to the effect that the treaty of 1837 between the United States and Greece conferred upon the citizens of either country in the dominions of the other the same rights as respects trade-marks as such citizens may enjoy in their own, would not accomplish the end desired, but that a formal treaty was necessary. I think it is plain that a simple declaration would not bind this Government to grant trade-mark privileges to Mexican citizens, but in view of the Mexican law, which (the Commissioner of Patents states) allows citizens of the United States to register their trade-marks in Mexico, it would appear that Mexicans can now obtain registration of their trade-marks here, under the provisions of our law of March 3, 1881. * * * It will be observed that the provision of sec. 3 [of the act of March 3, 1881] is in the alternative; that in order to entitle a trade-mark to registration, it must appear: 1. That it is lawfully used as such by the applicant in foreign commerce, the owner being domiciled in the United States or located in a foreign country which, by treaty, convention, or by law, affords similar privileges to citizens of the United States; or 2, that such trade-mark is within the provision of a treaty, convention, or declaration with a foreign power. While registration could not be claimed by a Mexican under the second alternative, it seems to me that it could properly be claimed under the first. I think an exchange of notes with the Mexican Government would be entirely proper to establish the fact that under the Mexican law, citizens of the United States may obtain registration of their trade-marks. This was done with the Netherlands in 1883." Moore, Int. Law Digest, II, 36.

[38] The international convention for the protection of industrial property, signed at Paris, March 30, 1883, was ratified by the President with the advice and consent of the Senate, March 29, 1887, and the ratification was communicated to the Swiss Government on May 30, 1887. The ratification of the additional act, signed at Brussels, December 14, 1900, was deposited at Brussels, May 3, 1901. These two conventions have been superseded by the convention signed at Washington June 2, 1911, which has been duly ratified and proclaimed on the part of the United States. The United States is also a party to the general convention for the protection of inventions, patents, designs, and industrial models, signed August 20, 1911, at the Fourth International American Conference.

[39] 1 Stat. at L. 239.

[40] Sec. 26, 1 id. 366.

[41] Sec. 25, 1 id. 740.

[42] Sec. 32, 2 id. 603.

[43] Sec. 34, 4 id. 112.

[44] 9 id. 589.

[45] 17 id. 304.

[46] See for careful examination of these various legislative enactments, opinion of William H. Taft, Solicitor General, Mar. 20, 1890, 19 Op. Atty. Gen. 513, and speech of Henry Cabot Lodge in the U. S. Senate, February 29, 1912, on the proposed arbitration conventions with Great Britain and France, S. Doc. No. 353, 62d Cong., 2d sess., 15. The conclusion by the Postmaster General, by and with the advice and consent of the President, of arrangements with adjoining countries, for the transportation of mails, is authorized by § 4012, Rev. Stat.

[47] 17 Stat. at L. 297. Sec. 15 of the act of July 27, 1868. 15 id. 196.

[48] As amended by the act of January 30, 1889. 25 id. 654.

[49] 19 Stat. at L. 577; 28 id. 1078; 30 id. 1629; 35 id. 1639.

[50] *Cotzhausen* v. *Nazro* (1882), 107 U. S. 215. In *United States* v. *Eighteen Packages of Dental Instruments* (1914), 222 Fed. 121, it is stated that the authority to enter into post conventions with other countries is to be found in the treaty-making power.

Mexico; and June 9, 1862, with Costa Rica. The ratification was in each instance advised by the Senate.[51]

SEC. 66. Agreements with Indian tribes: On July 12, 1775, three departments of Indian affairs—the northern, southern, and middle—were organized and the superintendence of each placed under commissioners.[52] By the general ordinance for the regulation of Indian affairs of August 7, 1786, two districts were organized, the superintendents of which were placed under the immediate control of the Secretary at War.[53] Treaties concluded through these agencies do not appear to have been formally ratified.[54] In the act of August 7, 1789, for the organization of the War Department under the Constitution, the conduct of Indian affairs was recognized as belonging to the Secretary of War. Later it was transferred to the Department of the Interior.[55] The Senate, in approving an Indian treaty submitted for its "consideration and advice" by President Washington, May 25, 1789—the first to be submitted under the Constitution—simply advised the President "to execute and enjoin an observance." The President, in a message of September 17, requested information as to the meaning of the action of the Senate and suggested a ratification as in case of other treaties. The committee appointed by the Senate to examine the question reported against a formal ratification; but the Senate complied with the suggestion of the President by voting, September 22, to advise and consent to the ratification.[56] This procedure was followed until 1871, during which period treaties with Indian tribes were far more numerous than those with foreign powers. In the Indian Appropriations Act of March 3, 1871, it was enacted that thereafter no Indian nation or tribe within the territory of the United States should be acknowledged or recognized as an independent nation, tribe, or power with which the United States might contract by treaty, but that the obligation of existing treaties was in no way to be impaired or invalidated by the act.[57] No formal treaties with the Indian tribes have since been made, but agreements with them have been laid before Congress for its approval.[58] "Since the act of March 3, 1871, the Indian tribes have ceased to be treaty-making powers and have become simply the wards of the Nation. As such, Congress speaks for them and has become the legislative exponent of both guardian and ward."[59]

The peculiar status of the Indian tribes within the United States was defined in 1831 by Chief Justice Marshall, with his usual felicity of expression, as follows: "It may well be doubted whether those tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. They may, more correctly, perhaps, be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian."[60] Mr. Justice Gray, at a later date, said: "The Indian tribes within the limits of the United States are not foreign nations; though distinct political communities, they are in a dependent condition; and Chief Justice Marshall's description, that 'they are in a state of pupilage,' and 'their relation to the United States resembles that of a ward to his guardian' has become more and more appropriate as they have grown less powerful and more dependent."[61]

[51] Ex. Journal, VI, 275, 321; VIII, 16, 17; XI, 497, 563; XII, 102, 116, 398, 406. See for collection of postal conventions, 16 Stat. at L. 783–1123; 17 id. 879.

[52] Journals of Congress (1800 ed.), I, 151.

[53] Id., XI, 127.

[54] See id., X, 137; XI, 39, 40, 42, 44.

[55] 1 Stat. L. 50.

[56] Ex. Journal, I, 25, 27, 28. The following entry appears in the Journal under date of May 25, 1789: "General Knox brought the following message from the President, which he delivered into the hands of the Vice President and withdrew." Id., 3.

[57] 16 Stat. L. 566; Rev. Stat., sec. 2079. See sec. 6 of the act of March 29, 1867, and the act of July 20, 1867. 15 Stat. L. 9, 18.

[58] See, for instances, acts of Congress approved as follows: April 29, 1874, to ratify an agreement with the Ute Tribe of Indians (18 Stat. L. 36); December 15, 1874, to ratify an agreement with the Shoshone Indians (18 id. 291); February 28, 1877, to ratify an agreement with certain bands of the Sioux Indians and certain other tribes (19 id. 254); June 15, 1880, to ratify an agreement with the Ute Indians (21 id. 199); April 11, 1882, to ratify an agreement with the Crow Indians (22 id. 42); July 3, 1882, to ratify an agreement with the Shoshone and Bannock Indians (22 id. 148); July 10, 1882, to ratify an agreement with the Crow Indians (22 id. 157); March 1, 1889, to ratify an agreement with the Creek Indians (25 id. 757); February 13, 1891, to ratify an agreement with the Sac and Fox Indians (26 id. 749); March 1, 1901, to ratify an agreement with the Cherokees (31 id. 848); March 1, 1901, to ratify an agreement with the Creek Indians (31 id. 861); June 30, 1902, to ratify a supplemental agreement with the Creek Indians (32 id. 500, 2021; and July 1, 1902, to ratify an agreement with the Choctaw and Chickasaw Tribes of Indians (32 id. 641).

[59] Nott, C. J., *Jonathan Brown* v. *United States* (1897) (32 C. Cls. 432, 439).

[60] *Cherokee Nation* v. *State of Georgia* (5 Pet. 1, 17).

[61] *Jones* v. *Meehan* ((1899) 175 U. S. 1, 10), citing *Cherokee Nation* v. *Georgia* (5 Pet. 1, 17); *Elk* v. *Wilkins* (112 U. S. 94, 99); *United States* v. *Kagama* (118 U. S. 375, 382, 384); *Stephens* v. *Choctaw Nation* (174 U. S. 445, 484). See also *Missouri, Kansas and Texas R. R. Co.* v. *United States* (47 C. Cls. 59) for résumé of legislation affecting the Indian tribes.

SEC. 67. Acquisition of territory: Although the important acquisitions of 1803, 1819, 1848, 1853, 1867, and 1898 were made by formal treaty, territory has under special circumstances been acquired by virtue of an act of Congress. A treaty was signed at Washington, April 12, 1844, with the Republic of Texas, by which that republic agreed to convey and transfer to the United States all its rights of separate and independent sovereignty and jurisdiction. On June 8, 1844, the treaty was rejected by the Senate by a vote of 35 to 16.[62] In resolution, submitted by Mr. Benton, May 13, 1844, it was declared that the ratification of the treaty would be the adoption of the Texan War; that the treaty-making power of the President and Senate did not include the power of making war, either by declaration or by adoption; and that the territory disencumbered from the United States by the treaty of 1819 ought to be united to the American Union as soon as this could be accomplished with the consent of a majority of the people of the United States and of Texas, and when Mexico should either consent to the transfer or acknowledge the independence of Texas, or cease to wage war against her on a scale commensurate with the conquest of the country.[63] The opinion was frequently expressed that the ratification of the treaty would be the adoption of a war with Mexico, and accordingly not within the province of the treaty-making power. To an enquiry made by the Senate whether any military preparations had been made in anticipation of war, and, if so, for what cause and with whom was war apprehended, President Tyler, in a message of May 15, 1844, replied that, in consequence of an announcement of Mexico of its determination to regard as a declaration of war the definitive ratification of the treaty of annexation, a portion of the naval and military forces of the United States had as a precautionary measure been assembled in the region of Texas. He observed further that the United States having by the treaty of annexation acquired a title to Texas, which required only the action of the Senate to perfect it, no other power could invade and by force of arms possess itself of any portion of the territory of Texas, pending the deliberations of the Senate on the treaty, without placing itself in a hostile attitude to the United States.[64] Immediately preceding the rejection of the treaty, a resolution was introduced by Mr. Henderson declaring that the annexation would be properly achieved on the part of the United States by an act of Congress admitting the people of Texas with defined boundaries as a new State into the Union on an equal footing with the other States.[65] This course was followed, and on March 1, 1845, a joint resolution was approved consenting to the erection of the territory rightfully belonging to the Republic of Texas into a new State. A proviso, attached in the Senate through the efforts of Mr. Benton, gave the President an opportunity, before communicating the resolution to Texas, to resort to negotiations upon terms of admission and cession either by treaty to be submitted to the Senate or by articles to be submitted to both Houses.[66] The purpose of the proviso was to effect if possible the acquisition, and at the same time maintain peaceful relations with Mexico.[67] Negotiations were not resorted to;[68] and Texas, having accepted and complied

[62] Executive Journal, VI, 312.

[63] Id., VI, 277.

[64] Id., VI, 274, 277, 279.

[65] Id., VI, 311.

[66] 5 Stats. at L. 797.

[67] Benton, Thirty Years in the United States Senate, II, 602, 619, et seq.

[68] Mr. Calhoun, Secretary of State, in communicating a copy of the joint resolution to Mr. Donelson, chargé d'affaires to Texas, March 3, 1845, said: "The President has deliberately considered the subject, and is of opinion that it would not be desirable to enter into the negotiations authorized by the amendment of the Senate; and you are accordingly instructed to present to the Government of Texas, as the basis of its admission, the proposals contained in the resolution as it came from the House of Representatives. * * * But the decisive objection to the amendment of the Senate is, that it would endanger the ultimate success of the measure. It proposes to fix, by negotiation between the Governments of the United States and Texas, the terms and conditions on which the State shall be admitted into our Union, and the cession of the remaining territory to the United States. Now, by whatever name the agents conducting the negotiation may be known * * * the compact agreed on by them in behalf of their respective Governments would be a treaty; whether so-called or designated by some other name. * * * And if a treaty (as it clearly would be) it must be submitted to the Senate for its approval and run the hazard of receiving the votes of two-thirds of the Members present, which could hardly be expected, if we are to judge from recent experience. This, of itself, is considered by the President as a conclusive reason for proposing the resolution of the House, instead of the amendment of the Senate, as the basis of annexation" (mss. inst. to Texas, I, 107). Mr. Buchanan, Secretary of State, in instructions to Mr. Donelson, dated March 10, 1845, stated that, while the new President did not concur in the opinion of his predecessor that terms of admission agreed upon under the proviso would necessarily be a treaty which must be submitted to the Senate for its advice and consent, he had decided not to reverse the decision of his predecessor (Works of James Buchanan, Moore ed., VI, 120).

with the conditions of the resolution,[69] was admitted by a joint resolution approved December 29, 1845, as a State into the Union.[70]

A treaty for the incorporation of the Dominican Republic, signed November 29, 1869, was rejected by the Senate on June 30, 1870. President Grant in his annual message of December 5, 1870, urged upon Congress early action expressive of its views as to the best means of making the acquisition, and suggested that this might be accomplished either by the action of the Senate on a treaty, or by the joint action of the two Houses of Congress on a resolution of annexation as in the case of the acquisition of Texas.[71]

A treaty was signed at Washington, June 16, 1897, with the Republic of Hawaii for the annexation of that republic to the United States. The treaty was ratified by the Hawaiian Legislature, but the cession was accepted and confirmed on the part of the United States by a joint resolution approved July 7, 1898.[72] Although, as a matter of fact, the resolution was agreed to in the Senate, July 6, by a two-thirds vote,[73] the annexation was effected by an act of the legislative, not the treaty-making, power. In 1845, a foreign state was by an act of Congress incorporated and admitted as a State into the Union; in 1898, a foreign state was by an act of Congress brought within the territorial jurisdiction of the United States. In each case, however, the other contracting party by the very agreement lost its identity as a separate nation with which international relations could thereafter exist, and the agreement by which the incorporation was effected ceased thereupon to be an international compact.[74]

In defining the relations which should exist between the United States and Cuba, article VII of the act of Congress, approved March 2, 1901, provided that, to enable the United States to maintain the independence of Cuba and to protect the people thereof, as well as for its own defense, the Cuban Government would sell or lease to the United States lands necessary for coaling and naval stations at points to be agreed upon with the President of the United States. This same provision was adopted by Cuba as article VII of the appendix to its constitution. By virtue thereof an agreement was signed, by the President of Cuba, February 16, 1903, and by the President of the United States, February 23, 1903, for the lease to the United States, subject to terms to be agreed upon by the two governments, of lands at Guantanamo and Bahia Honda for coaling and naval stations. Neither this agreement nor the protocol of July 2, 1903, prescribing the conditions of the lease, and in which the United States agreed to pay to Cuba annually, as long as it should occupy the designated areas, the sum of $2,000 in gold, was submitted to the Senate, although the latter agreement was formally approved by the President and the ratifications exchanged.[75]

The act of Congress of August 18, 1856, brought forward as sections 5570–5578 of the Revised Statutes, provides that, whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government and not occupied by the citizens of any other government, and takes peaceable possession thereof and occupies the same, such island or key may at the discretion of the President be considered as appertaining to the United States. Under the provisions of this act numerous guano islands have been announced as appertaining to the United States.[76]

[From the Yale Law Journal, vol. 46, 1936–37, p. 660]

If the procedural barriers to an attack on the Trade Agreements Act are successfully negotiated, there remains the more basic issue of its validity. The act contemplates the exercise of two governmental powers: that of making international agreements other than treaties, and that of reducing tariffs. Although authority to enter into international agreements less formal than treaties is nowhere expressly granted in the Constitution, it is concededly part of the power to control foreign affairs which is vested in the Federal Government; [1] under American practice, such agreements have traditionally been made by the executive rather than the legislative branch of the Government.[2] On the other hand, tariff making has always been considered a function of the legislative branch of the Federal Government, as part of the power given it in the Constitution to levy duties [3] and control foreign commerce.[4] It is probable that Congress could not constitutionally enter into agreements with foreign nations,[5] and it is possible that the Executive could not, without statutory authority, make an effective trade agreement regulating tariffs, since such an agreement might not have the status of a treaty,[6] and the existing tariff legislation might therefore remain the law of the land.[7] The technique of the Trade

---

[69] The Executive Government, the Congress, and the people of Texas in convention have successively complied with all the terms and conditions of the joint resolution * * * the people of Texas at the polls have accepted the terms of annexation and ratified the Constitution (President Polk, annual message, December 2, 1845, Richardson, Messages and Papers of the Presidents, IV, 386).

[70] 9 Stats. at L. 108. Mr. Archer, of the Committee on Foreign Relations, submitted a report to the Senate, February 4, 1845, in which he objected on constitutional grounds to this method of acquisition (Compilation of Reports of Senate Committee on Foreign Relations, VI, 78).

[71] Richardson, Messages and Papers of the Presidents, VII, 100.

[72] 30 Stats. at L. 750.

[73] 42 to 21, Congressional Globe, 55th Cong., 2d sess., 6712.

[74] See Westlake, Int. Law, I, 64. On April 24, 1802, an agreement was entered into with the State of Georgia for the cession to the United States of western lands. The commissioners on the part of the United States, James Madison, Albert Gallatin, and Levi Lincoln, were appointed by President Adams under an act of Congress, approved April 7, 1798. An act of May 10, 1800, vested final powers in the commissioners. On the part of Georgia the agreement was ratified and confirmed by the legislature, June 16, 1802. H. Mis. Doc. No. 45, 47th Cong., 2d sess., pt. 4, pp. 78–81. For an agreement between the Federal Government and the government of the State of Texas as to boundaries, effected by an act of Congress of September 9, 1850, and an act of the Legislature of Texas of November 25, 1850, see Richardson, Messages, V, 95. Such agreements are at all stages, during their negotiation, as well as after their conclusion, entirely an internal affair. During the northeastern boundary negotiations in 1832, an agreement with the State of Maine for the cession to the Government of the United States of the territory under dispute, and claimed by that State, east of the St. Francis River and north of the St. John, was signed. The agreement was never consummated; but in the fifth article of the Webster-Ashburton treaty a clause was inserted, by which the Government of the United States agreed "with the States of Maine and Massachusetts to pay them the further sum of $300,000, in equal moieties, on account of their assent to the line of boundary described in this treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannic Majesty." The irregularity of incorporating into an international treaty a stipulation of this character was not overlooked by the British negotiator. On signing the treaty, Lord Ashburton addressed a note to Mr. Webster, in which he stated that the introduction of an agreement between the Central and State governments would have been "irregular and inadmissible, if it had not been deemed expedient to bring the whole of these transactions within the purview of the treaty." He requested an assurance that his Government should incur no responsibility for these engagements. To this Mr. Webster replied on the same date: "It purports to contain no stipulation on the part of Great Britain, nor is any responsibility supposed to be incurred by it on the part of your Government." Moore, Int. Arb., I, 138; Webster's Works, VI, 289–290.

[75] The agreement for the relinquishment of the leasehold rights at Bahia Honda in exchange for an enlargement of the naval station at Guantanamo Bay, referred to in the President's message on foreign relations of December 3, 1912, is now awaiting the approval of the Cuban Government.

[76] 11 Stats. at L. 119. *Jones* v. *United States* (137 U. S. 202.) See for list of these islands, Moore, Int. Law Digest, I, 567.

[1] Under international law, power over foreign affairs rests with the sovereign. See Crandall, Treaties, Their Making and Enforcement (2d ed. 1916), 1; Anderson, The Extent and Limitations of the Treaty-Making Power Under the Constitution (1907) (1 Am. J. Int. L. 636). It has been said that the United States is a sovereign member of the family of nations and therefore vested with this power. See *Holmes* v. *Jennison* (14 Pt. 540, 568–570 (U. S. 1840)); *Curtiss-Wright Export Corporation* v. *United States* (Sup. Ct., Dec. 21, 1936); cf. Corwin, The President's Control of Foreign Relations (1917), 1–6; Corwin, National Supremacy (1913), 21–58; Wilson, International Law and the Constitution (1933) (13 B. U. L. Rev. 234–251).

It has also been stated that the power is derived as well from the Constitution, either expressly or by implication. See Moore, The Control of the Foreign Relations of the United States, 1921, p. 3, in Reprints and Pamphlets, Yale Law Library. Support for this view can be found in the affirmative grants of authority to branches of the Federal Government to make treaties and appoint Ambassadors [U. S. Const., art. II, sec. 2, cl. 2], to regulate commerce with foreign nations [id., art. I, sec. 8, cl. 3], to punish violations of international law [id., cl. 10], and to declare war [id., cl. 11], and the denial to the States of power to enter into treaties, alliances, confederations [id., sec. 10, cl. 1], or (without the consent of Congress) into compacts or agreements [id., cl. 3].

[2] See Corwin, The President's Control of Foreign Relations (1917) 116–120; Crandall, op. cit. supra note 76, at 102.

[3] U. S. Constitution, art. I, sec. 8, cl. 1.

[4] Id., cl. 3.

[5] See *Curtiss-Wright Export Corporation* v. *United States* (Sup. Ct., Dec. 21, 1936); Black, The Role of the President and the Senate in the Treaty-Making Power (1926) (11 St. Louis L. Rev. 203, 215).

[6] No cases have been found deciding the status of agreements concluded without statutory authority. Agreements entered into in pursuance of statute have been considered treaties for jurisdictional purposes. *B. Altman & Co.* v. *United States* (224 U. S. 583 (1912)); see Crandall, op. cit. supra note 76, at 123, n. 11. But it was recognized in the Altman case that such agreements are not treaties in the constitutional sense. For a discussion, see Lenoir, Treaties and the Supreme Court (1934) (1 U. of Chi. L. Rev. 602, 608–609).

[7] See Anderson, The Recent Trade Agreement With Russia (1935) (29 Am. J. Int. L. 653, 655–656); cf. Moore, Treaties and Executive Agreements (1905) (20 Pol. Sci. Q. 385, 393). It has even been suggested that a subsequent treaty might not supersede tariff legislation. See Anderson, supra note 76, at 650–653.

Agreements Act seemed a practical way to obtain international agreements regulating tariff rates; it resolves the division of authority between Congress and the Executive by having Congress delegate its tariff-making powers to the President who is capable of negotiating with foreign nations.[8] Upon the validity of this delegation rests the constitutionality of the act.[9]

The criterion by which the courts purport to determine whether a particular delegation of legislative power can be reconciled with the principle of separation of powers [10] is whether Congress has established sufficiently definite standards to guide the exercise of the power.[11] Until 1935, the Supreme Court had in no case held an act of Congress delegating power to the Executive invalid under this test.[12] Various vague standards, such "public interest," [13] "undesirable residents," [14] "educational, moral, amusing, or harmless," [15] "purity, quality, and fitness for consumption," [16] "safe, pure, and affording a satisfactory light," [17] and even "reasonable" [18] were held to furnish a sufficient guide for the exercise of the power.[19] A delegation of tariff-making power, quite similar to that of the Trade Agreements Act, was upheld in *J. W. Hampton, Jr. & Co.* v. *United States*,[20] in which the flexible-tariff provisions of the Tariff Act of 1922 [21] were attacked. By that act, the President was authorized to increase or decrease by 50 percent the import duty on any commodity in order to equalize the difference between the costs of production abroad and in the United States. The Supreme Court held that, although it may be difficult to determine such differences in cost, Congress' objective was clear enough, and that consequently a satisfactory criterion for executive action was provided. But in two cases decided in 1935—*Panama Refining Co.* v. *Ryan* [22] and *Schechter Poultry Corp.* v. *United States* [23]—the Supreme Court invalidated the National Industrial Recovery Act,[24] holding that the delegation of legislative power to the President was defective because the general standards of policy set up by Congress were so broad that they provided no limitation on the executive authority, but rather gave "a roving commission to inquire into evils, and upon discovery, correct them." [25]

Despite their emphasis on the need for careful standards to restrict administrative action, the cases have made it clear that the standards which Congress must establish in order to satisfy constitutional proprieties are defined with reference to the factual setting in which the particular administrative activity is undertaken. The operation of this principle is strikingly illustrated by the recent Supreme Court decision in *United States* v. *Curtiss-Wright Export Corporation*.[26] That case involved the validity of a Congressional resolution [27] delegating to the President the power to impose an embargo on the shipment of arms and munitions to belligerent nations. Although the only standard set up to guide the President in determining when he should forbid such exports was the requirement that he find that the embargo "may contribute to the reestablishment of peace," the Supreme Court, with Mr. Justice McReynolds dissenting, held the delegation constitutional. The Court did not decide whether this standard would have been adequate to support a delegation of power over internal matters, but stated that an unusually large degree of discretion could constitutionally be granted to the President in the exercise of an authority which would inevitably have an effect on, and involve participation in, foreign affairs. Two somewhat interrelated propositions are discernible as the grounds for this conclusion.

The first is that as a matter of practical efficiency, the President must be given a relatively free hand in dealing with problems affecting foreign relations. His special knowledge of affairs abroad, the necessity that he be unembarrassed and free to act quickly, and the need for secrecy in the conduct of international negotiations are all considerations requiring that his action in this field be as free as possible. This view that practical necessities help to define the constitutional restrictions on the exercise of a particular delegated power is apparent not only in cases concerning foreign relations,[28] but also where internal matters of some complexity, detail, or technicality have been involved.[29]

But the Supreme Court advanced another proposition, apparently novel in the literature relating to delegation of power, to explain why an unusual degree of discretion could constitutionally be given to the Executive under the embargo resolution.[30] The Court emphasized that it was "dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress, * * *" This statement seems to indicate that where the executive is entrusted with legislative authority to be exercised in conjunction with and in aid of one of his own sovereign, or perhaps constitutional duties, in this case his authority as agent of the Nation in foreign affairs, constitutional requirements of definiteness in delegation will be satisfied by a general indication from the legislature as to how it wishes the delegated power to be used.

Finally, the Court buttressed its conclusion by referring to the lengthy history of comparable legislation, a factor which, while not controlling, is a strong indication of constitutionality not to be disregarded in the absence of a clear usurpation of power.[31]

---

[8] But cf. Moore, supra note 76, at 3: "In regard to * * * 'congressional delegation of power to make international agreements,' I have * * * always, been inclined to think that no 'delegation' of power whatever is involved in the matter. As Congress possesses no power whatever to make international agreements, it has no such power to delegate. All that Congress has done in the cases referred to is to exercise beforehand that part of the function belonging to it in the carrying out of a particular class of international agreements. Instead of waiting to legislate until an agreement has been concluded and then acting on the agreement specifically, Congress has merely adopted in advance general legislation under which agreements, falling within its terms, become effective immediately on their conclusion or their proclamation."

[9] It has been argued that the matters covered by the agreements can properly be dealt with only by treaty; and that the agreements cannot be sustained as treaties, because the Senate's power of ratification, if delegable at all, is not properly delegated in the Trade Agreements Act. See Comment (1936) (24 Geo. L. J. 717, 718). But it seems probable that tariff reciprocity may be accomplished by executive agreements, at least if made pursuant to statute, as well as by treaties. Cf. *Field* v. *Clark* (143 U. S. 649 (1892)); Corwin, op. cit. supra note 77, at 117, 120–125. And see note 110, infra.

[10] The doctrine of separation of powers is not affirmatively asserted in the Constitution, but is derived from art. I, sec. 1, and art. I, sec. 8, clause 18, giving legislative power to Congress. For general discussion of this doctrine, see 3 Willoughby, Constitutional Law (3d ed. 1929), secs. 1058–1086.

[11] *Field* v. *Clark* (143 U. S. 649 (1892)); *United States* v. *Shreveport Grain & Elevator Co.* (287 U. S. 77 (1932)); *Federal Radio Commission* v. *Nelson Bros. Bond & Mortgage Co.* (289 U. S. 266 (1933)); *Precision Castings Co.* v. *Boland* (13 F. Supp. 877 (W. D. N. Y. 1936)); cf. *Amchanitzky* v. *Carrougher* (3 F. Supp. 993 (E. D. N. Y. 1933)); see Comment (1935), 48 Harvard Law Review, 798.

[12] But cf. *Knickerbocker Ice Co.* v. *Stewart* (253 U. S. 149 (1920)) (delegation of power to States held invalid).

[13] *New York Central Securities Corporation* v. *United States* (287 U. S. 12 (1932)).

[14] *Mahler* v. *Eby* (264 U. S. 32 (1924)).

[15] *Mutual Film Corporation* v. *Industrial Commission* (236 U. S. 230 (1915)).

[16] *Waite* v. *Macy* (246 U. S. 606 (1918)).

[17] *Red "C" Oil Manufacturing Co.* v. *Board of Agriculture* (222 U. S. 380 (1912)).

[18] *Avent* v. *United States* (266 U. S. 127 (1924)).

[19] The State courts have not always been as lenient and such concrete standards as the following have been held insufficient to permit delegation: Prevailing rate of wages (*Mayhew* v. *Nelson* (346 Ill. 381, 178 N. E. 921 (1931)) (Government contracts); business methods, experience, ability, general reputation for integrity, financial standing (*Moore* v. *Beekman & Co.* (347 Ill. 92, 179 N. E. 435 (1931)) (bonding security dealers); fairness and equity between insurers and insured, brevity and simplicity, avoidance of technical words and phrases, avoidance of conditions, use of large type, separation into numbered paragraphs (*King* v. *Concordia Fire Insurance Co.* (140 Mich. 258, 103 N. W. 616 (1905) (standard insurance policies)). But cf. *State* v. *Whitman* (196 Wis. 472, 220 N. W. 929 (1928)), for a more liberal State view.

[20] 276 U. S. 394 (1928). Other delegations of legislative power in the tariff field were upheld in *Field* v. *Clark* (143 U. S. 649 (1892) (reciprocal-trade agreements under Tariff Act of 1890)); *Frischer* v. *Bakelite Corporation* (39 F. (2d) 247 (C. C. P. A. 1930) (increase in tariff rates to meet foreign unfair competition)); *Kleburg & Co.* v. *United States* (71 F. (2d) 332 (C. C. P. A. 1933) (antidumping duties)); *United States* v. *Fox River Butter Co.*, T. D. 45675 (C. C. P. A. 1932), reviewing T. D. 44667 (Cust. Ct., 3d Div. 1931), certiorari denied, 287 U. S. 628 (1932) (change in classification under flexible tariff provision of Tariff Act of 1930)); *United States* v. *Sears, Roebuck & Co.*, T. D. 46086 (C. C. P. A. 1932) (change in rate under flexible tariff provision of Tariff Act of 1930). (See also Comments (1930) 40 Yale L. J. 108; (1928) 76 U. of Pa. L. Rev. 974; (1927) 41 Harv. L. Rev. 95; (1931) 44 Harv. L. Rev. 1140; (1932) 27 Ill. L. Rev. 302.)

[21] 42 Stat. 941 (1922), 19 U. S. C., sec. 154 (1934).

[22] 293 U. S. 388 (1935).

[23] 295 U. S. 495 (1935).

[24] 48 Stat. 195 (1933), 15 U. S. C., sec. 701 (1934).

[25] *Schechter Poultry Corporation* v. *United States* (295 U. S. 495, 551 (1935)).

[26] U. S. Sup. Ct., Dec. 21, 1936.

[27] 48 Stat. 811 (1934). See Comment (1933) 42 Yale L. J. 1109.

[28] *The Brig Aurora* v. *United States* (7 Cranch 382 (U. S. 1813)); *United States* v. *Chavez* (228 U. S. 525 (1913)).

[29] *Union Bridge Co.* v. *United States* (204 U. S. 364 (1907)), and *Monongahela Bridge Co.* v. *United States* (216 U. S. 177 (1910)) both involving determination of height of bridges over navigable river); *United States* v. *Grimaud* (220 U. S. 506 (1911)) (granting permission for grazing in forest reserves); *Intermountain Rate Cases* (234 U. S. 476 1914)), and *Arizona Grocery Co.* v. *Atchison, T. & S. F. Ry.* (284 U. S. 370 (1932)) (both involving fixing of railroad rates); see Cheadle, The Delegation of Legislative Functions (1918), 27 Yale L. J. 892, 920.

[30] This principle was perhaps foreshadowed by language used in *Panama Refining Co.* v. *Ryan* (293 U. S. 388, 422 (1935)).

[31] *The Laura* (114 U. S. 411 (1885)); *Field* v. *Clark* (143 U. S. 649 1892)); *Downes* v. *Bidwell* (182 U. S. 244 (1901)). And see note 110, *infra*.

In the perspective of past decisions, there can be little doubt as to the validity of the Trade Agreements Act. Although its stated aims of restoring the standard of living, increasing employment, and combating the depression are reminiscent of the vague standards set up in the National Industrial Recovery Act, it contains in addition more detailed limitations, similar to those which were approved in the Hampton case, such as the provisions that existing rates of duty cannot be changed by more than 50 percent, and that transfers from the free and dutiable lists are prohibited; and the President must find quite specifically that existing duties of the United States or of a foreign nation are unduly burdening the foreign trade of the United States, which appears to be as adequate a limitation as that approved in the Hampton case, where a finding was required that existing duties do not equalize the production cost of the domestic article and of the like foreign article. Furthermore, the executive is limited to the performance of one type of action—modification of tariff duties. "He is not left to roam at will among all the possible subjects of" foreign commerce.[22]

[From *Van Der Weyde* v. *Ocean Transport Co., Ltd., et al.*, 297 U. S. 114, at p. 115]

OPINION OF THE COURT

Mr. Chief Justice Hughes delivered the opinion of the Court.

Petitioner brought this libel in 1931 in the District Court for the Western District of Washington, against the vessel *Taigen Maru*, for personal injuries which he sustained as a seaman in 1922. The vessel was then known as the *Luise Nielsen* and was of Norwegian registry. The respondent, Ocean Transport Co., Ltd., a Japanese corporation, made claim as owner, and filed exceptions alleging that a final decree had been entered in the District Court for the District of Oregon in 1924, dismissing a libel, for the same cause, on the intervention of the Norwegian consul.

In the present case, there was again an intervention by the Norwegian consul, who claimed that, while the vessel was now Japanese, he was nevertheless officially concerned, as the former Norwegian owner had agreed to deliver the vessel "free from all debts and encumbrances." The consul filed exceptive allegations to the effect that the libelant, a Dutch subject, had signed Norwegian articles and, so far as his rights as a seaman were concerned, was bound by the laws of Norway, which provided for appropriate remedies. The consul asked that, if the cause was not dismissed because of the former decree, the dispute should be left for his adjustment and disposition. The libelant made response and, on hearing, the district court dismissed the cause "in the exercise of its discretion."

The circuit court of appeals affirmed the decree, but upon the ground that the dismissal should have been for want of jurisdiction rather than as an exercise of discretion (73 F. (2d) 922). The court based its decision upon the second paragraph of article XIII of the Treaty of Commerce and Navigation, of 1827, between the United States and the Kingdom of Sweden and Norway, the text of which is given in the margin.[1] The court assumed that this provision was still in effect, apparently not being advised of the fact that articles XIII and XIV of that treaty had been terminated in 1919. See Foreign Relations of the United States, 1919, pages 47–54.

Section 16 of the Seamen's Act of March 4, 1915,[2] expressed "the judgment of Congress" that treaty provisions in conflict with the provisions of the act "ought to be terminated," and the President was "requested and directed" to give notice to that effect to the several governments concerned within 90 days after the passage of the act. It appears that, in consequence, notice was given and that a large number of treaties were terminated in whole or in part.[3] The treaty with Sweden and Norway of 1827 provided that it might be terminated, after an initial period of 10 years, upon 1 year's notice.[4] On February 2, 1918, the Government gave notice to the Norwegian Government of the denunciation of the treaty in its entirely, to take effect on February 2, 1919, but later by an exchange of diplomatic notes, this Government formally withdrew its denunciation, except as to articles XIII and XIV. Foreign Relations of the United States, 1919, pp. 50–52.) It was expressly stated that articles XIII and XIV of the treaty, being in conflict with provisions of the Seamen's Act, were deemed to be terminated on July 1, 1916, so far as the laws of the United States were concerned (Id. pp. 53, 54.)

On June 5, 1928, the two governments signed a treaty of friendship, commerce, and consular rights, and on February 25, 1929, an additional article, which supplanted the treaty of 1827 (so far as the latter had remained effective), save that article I of the former treaty concerning the entry and residence of the nationals of the one country in the territories of the other for the purposes of trade, was continued in force.[5]

Respondent contends (1) that the Seamen's Act did not specifically direct the abrogation of article XIII, (2) that the act was not so unavoidably inconsistent with all the provisions of article XIII as to require its entire abrogation, and (3) that the diplomatic negotiations attempting to effect abrogation of the whole of article XIII "were in excess of congressional direction and in violation of constitutional authority."

The first and second points are unavailing, if article XIII was actually abrogated in its entirety, and that this was the purport of the diplomatic exchanges between the two governments is beyond dispute. As to the third point, we think that the question as to the authority of the Executive in the absence of congressional action, or of action by the treaty-making power, to denounce a treaty of the United States, is not here involved. In this instance the Congress requested and directed the President to give notice of the termination of the treaty provisions in conflict with the act. From every point of view, it was incumbent upon the President, charged with the conduct of negotiations with foreign governments and also with the duty to take care that the laws of the United States are faithfully executed, to reach a conclusion as to the inconsistency between the provisions of the treaty and the provisions of the new law. It is not possible to say that his conclusion as to articles XIII and XIV was arbitrary or inadmissible. Having determined that their termination was necessary, the President, through the Secretary of State, took appropriate steps to effect it. Norway agreed to the termination of articles XIII and XIV and her consul cannot be heard to question it.

The injuries, of which libelant complains, took place after that termination. The effect of the new treaty we need not, and do not, consider, as in any event it could not be regarded as retroactively affecting the jurisdiction of the district court.

The circuit court of appeals fell into error in sustaining the dismissal of the cause upon the ground of want of jurisdiction by reason of the treaty provision invoked. We express no opinion upon any other questions which the cause may present, as these have not been considered by the courts below. They should be considered and determined.

The decree is reversed and the cause is remanded for further proceedings in conformity with this opinion.

Reversed.

]From *United States* v. *Curtiss-Wright Export Corporation et al.*, 299 U. S. 304, at p. 319[

Not only, as we have shown, is the Federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate, and manifold problems, the President alone has the power to speak or listen as a representative of the Nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, "The President is the sole organ of the Nation in its external relations and its sole representative with foreign nations." (Annals, 6th Cong., col. 613.) The Senate Committee on Foreign Relations, at a very early day in our history (February 15, 1816), reported to the Senate, among other things, as follows:

"The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee consider this responsibility the surest pledge for the faithful discharge of his duty. They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch." (U. S. Senate, Reports, Committee on Foreign Relations, vol. 8, p. 24.)

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of

---

[22] *Panama Refining Co.* v. *Ryan* (293 U. S. 388, 434 (1935)).

[1] 8 Stat. 346, 352. "Article XIII. * * * The consuls, vice consuls, or commercial agents, or the persons duly authorized to supply their places, shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews, or of the captain, should disturb the order of tranquillity of the country; or the said consuls, vice consuls, or commercial agents should require their assistance to cause their decisions to be carried into effect or supported. It is, however, understood, that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their country."

[2] 38 Stat. 1164, 1184.

[3] Foreign Relations of the United States, 1915, pp. 3 et seq.; 1916, pp. 33 et seq.; 1917, pp. 9 et seq.; 1918, pp. 3 et seq.; 1919, pp. 47 et seq.

[4] Article XIX, 8 Stat. 356.

[5] 47 Stat. pt. 2, pp. 2135, 2158, 2159.

the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular, and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results. Indeed, so clearly is this true that the first President refused to accede to a request to lay before the House of Representatives the instructions, correspondence, and documents relating to the negotiation of the Jay treaty—a refusal the wisdom of which was recognized by the House itself and has never since been doubted. In his reply to the request, President Washington said:

"The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate, the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent" (1 Messages and Papers of the President, p. 194).

The marked difference between foreign affairs and domestic affairs in this respect is recognized by both Houses of Congress in the very form of their requisitions for information from the executive departments. In the case of every department except the Department of State, the resolution directs the official to furnish the information. In the case of the State Department, dealing with foreign affairs, the President is requested to furnish the information "if not incompatible with the public interest." A statement that to furnish the information is not compatible with the public interest rarely, if ever, is questioned.

When the President is to be authorized by legislation to act in respect of a matter intended to affect a situation in foreign territory, the legislator properly bears in mind the important consideration that the form of the President's action—or, indeed, whether he shall act at all—may well depend, among other things, upon the nature of the confidential information which he has or may thereafter receive, or upon the effect which his action may have upon our foreign relations. This consideration, in connection with what we have already said on the subject, discloses the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed. As this court said in *Mackenzie* v. *Hare* (239 U. S. 299, 311), "As a Government the United States is invested with all the attributes of sovereignty. As it has the character of nationality it has the powers of nationality, especially those which concern its relations and intercourse with other countries. We should hesitate long before limiting or embarrassing such powers."

In the light of the foregoing observations, it is evident that this Court should not be in haste to apply a general rule which will have the effect of condemning legislation like that under review as constituting an unlawful delegation of legislative power. The principles which justify such legislation find overwhelming support in the unbroken legislative practice which has prevailed almost from the inception of the National Government to the present day.

[From *United States* v. *Belmont et al., Executors,* 301 U. S. 324, at p. 330]

We take judicial notice of the fact that coincident with the assignment set forth in the complaint, the President recognized the Soviet Government, and normal diplomatic relations were established between that government and the Government of the United States, followed by an exchange of ambassadors. The effect of this was to validate, so far as this country is concerned, all acts of the Soviet Government here involved from the commencement of its existence. The recognition, establishment of diplomatic relations, the assignment, and agreements with respect thereto, were all parts of one transaction, resulting in an international compact between the two governments. That the negotiations, acceptance of the assignment and agreements and understandings in respect thereof were within the competence of the President may not be doubted. Governmental power over internal affairs is distributed between the National Government and the several States. Governmental power over external affairs is not distributed, but is vested exclusively in the National Government. And in respect of what was done here, the Executive had authority to speak as the sole organ of that Government. The assignment and the agreements in connection therewith did not, as in the case of treaties, as that term is used in the treaty-making clause of the Constitution (art. II, sec. 2), require the advice and consent of the Senate.

A treaty signifies "a compact made between two or more independent nations with a view to the public welfare." (*Altman & Co.* v. *United States,* 224 U. S. 583, 600.) But an international compact, as this was, is not always a treaty which requires the participation of the Senate. There are many such compacts, of which a protocol, a modus vivendi, a postal convention, and agreements like that now under consideration are illustrations. See 5 Moore, International Law Digest, 201–221. The distinction was pointed out by this court in the Altman case, supra, which arose under section 3 of the Tariff Act of 1897, authorizing the President to conclude commercial agreements with foreign countries in certain specified matters. We held that although this might not be a treaty requiring ratification by the Senate, it was a compact negotiated and proclaimed under the authority of the President, and as such was a "treaty" within the meaning of the Circuit Court of Appeals Act, the construction of which might be reviewed upon direct appeal to this court.

Mr. McKELLAR. Mr. President, in the spring of 1934 the Congress passed what is known as the Trade Agreements Act, under the provisions of which the President was given power, after he had found the facts, to lower by 50 percent or raise by 50 percent the tariff rates existing between foreign nations and the United States, or such of them as he made agreements with. Under the terms of the act it was to expire in 3 years, and subsequently it was extended for an additional 3 years. The expiration of the act comes on June 12 next; and the purpose of the pending joint resolution is to continue the act in force for a further period of 3 years.

The purpose of the Trade Agreements Act, as we all know, is to promote foreign trade. Under it the President is permitted to make trade agreements for a period not exceeding 3 years. When the act was passed the so-called Smoot-Hawley Tariff Act was in force, as it is still in force except as it has been modified by the trade agreements. That act was perhaps the highest tariff act this country ever knew. The Reciprocal Trade Agreements Act merely provides that after such facts are found as are stated in the act the President has a right to make these agreements, lowering or raising the tariff rates in accordance with the agreements within the limitations of 50 percent up or 50 percent down.

It will be remembered that the Democratic Party did not start this system of dealing with the tariff. It was started by our Republican friends. I believe the first time it was done a defect was found in the act, which defect was that no fact-finding body was designated, and as a result the original provision was declared unconstitutional.

In 1922 the Fordney-McCumber Tariff Act was passed, and in that act reciprocal-trade agreements were provided for. The provision was challenged in the courts; but the court held that the enactment was a valid one and that tariff changes could be made after a fact-finding body had passed upon the matter.

That was the situation when the present administration came into power; and in 1934 the present act was passed.

Mr. WALSH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Massachusetts?

Mr. McKELLAR. I yield.

Mr. WALSH. The Fordney-McCumber Act did not provide for international trade agreements. Power was simply vested in the President to raise or lower tariff rates under certain conditions.

Mr. McKELLAR. Under certain conditions. The authority was similar to, but not exactly like, this authority. Neither was the provision in the Smoot-Hawley Act, which was passed in 1930, exactly like this provision; but in principle it was substantially the same as this one, and the principle has been upheld by the Supreme Court of the United States and all our courts.

Mr. WALSH. The provision was similar to the extent that it was delegating so-called legislative power to the President.

Mr. McKELLAR. It delegated exactly the same legislative authority either to the President or to a Tariff Board.

Now, Mr. President, it is proposed to extend for 3 years, this act, admittedly constitutional, expressly so under the Constitution in the first place, and declared so by our Su-

preme Court, which is the last authority. Certainly it is constitutional.

Now, the Senator from Nevada [Mr. PITTMAN] has offered an amendment which I shall read:

At the end of the joint resolution insert the following new section:

"SEC. 2. Effective on the date of enactment of this act, section 2 of such act of June 12, 1934, is amended by adding at the end thereof the following new subsection:

"'(d) No foreign trade agreement hereafter entered into under section 1 of this act shall take effect until the Senate of the United States shall have advised and consented to its ratification, two-thirds of the Senators present concurring.'"

The purpose of this amendment, as I understand it, is twofold:

First. It is to declare that trade agreements entered into under this law shall hereafter be regarded as treaties, which can become operative only by and with the advice and consent of the Senate.

Second. That hereafter, in dealing with the subject of trade agreements, they will by law be designated as treaties, and made only by the President and the Senate, leaving out entirely the House of Representatives.

The first question raised as to the pending bill is that the agreements made under it are treaties, and that they are unconstitutional and invalid unless the Senate ratifies them. The distinguished Senator from Nevada very vigorously, earnestly, and ably presented this view. To my mind, his argument that such trade agreements are treaties is not sound. Trade agreements have never been considered treaties during the history of our Republic. Over 1,000 of them have been made by the President under authority of laws passed by Congress, and all such laws and agreements have been held valid and binding.

Not only that, but there are two distinct provisions of the Constitution which clearly and unmistakably make a distinction between trade agreements and treaties. The first provision is found in section 8 of article I of the Constitution, and in part reads as follows:

The Congress shall have power * * * to regulate commerce with foreign nations.

The power in the Congress to regulate commerce is full, ample, and inclusive. We have used this power from the first session of Congress in 1789 down to this good hour. It usually takes the form of tariff bills. In these bills the Congress fixes the rates of duty on articles imported into this country. Until comparatively recent years these rates of duty were fixed and determined by the Congress itself, and no authority or power was given the Executive or other person to change them. The Tariff Act itself was the only way in which the Congress undertook to "regulate" commerce with foreign nations. Then came the school of thought that the Congress, having full power to act in the circumstances, might give the President or a tariff board power to raise or decrease tariff duties so as better to regulate them.

My recollection is that the first act was declared unconstitutional because it did not require the President or a tariff board to find the facts before changing the duty; and then, as I have stated, a bill was passed by which the President was empowered to find the facts and then change the duty within certain limits; and this act was held constitutional by our Supreme Court.

There cannot be the slightest question that under the present act the President, who is given power to change the duties upward or downward 50 percent, must first find the facts and then make the agreement changing the duties. How can such a provision be considered unconstitutional? Express power is given to the Congress by the Constitution to pass acts to regulate commerce with foreign countries. The Supreme Court has held that the Congress may go a step further, and give the President or a tariff board the right to raise or lower the duties within the limit of 50 percent.

As I understand the argument of the Senator from Nevada [Mr. PITTMAN] and other learned Senators who have spoken on that side, it is that the present act is unconstitutional because a trade agreement is a treaty. The answer to that argument, of course, is that laws have been passed from time to time in our history directing the President to make such agreements, and more than one thousand of them have been made as above stated, and that by a uniform legislative course such agreements are held to be agreements in regulation of commerce with foreign nations, and not treaties with foreign nations.

A further answer is that in the same sentence of the same article and section of the Constitution, the Congress is given authority to deal with commerce between the States; and our uniform practice during the entire history of the Government has been to deal with domestic commerce in the same manner that we deal with foreign commerce. The uniform practice for many years in dealing with commerce between the States has been not for Congress to make the rates, but for Congress to authorize an interstate commerce commission, to be appointed by the President and confirmed by the Senate, to make these rates and put them in effect. Of course, that service could have been performed by the Executive; but in the wisdom of Congress it has seen fit to give that almost absolute power to the Interstate Commerce Commission, and the plan has been held constitutional and has worked well.

The same course, however, has not been pursued with respect to our foreign commerce; for inasmuch as the President conducts all of our relations with foreign countries, the Congress has seen fit, in its discretion, to give to the President power to regulate foreign commerce under the conditions laid down in the Act of Congress.

Able Senators, Senators in whose ability I have the greatest confidence, learned Senators, including my distinguished friend from Colorado [Mr. ADAMS], who has just taken his seat—and there is no man in the Senate whom I admire more than I do the Senator from Colorado—have argued that the Trade Agreements Act is unconstitutional. I do not agree at all with those Senators. But what about the amendment of the Senator from Nevada [Mr. PITTMAN]? The Senator from Nevada is a long-time friend of mine. Usually, I am on the same side with him. I am devoted to him. I am a great admirer of his ability, and in every other way I admire him; but is his amendment constitutional? I propose to show that the Senator's amendment is unconstitutional, and I shall first take up that subject. I think I have already demonstrated that the main measure, extending the Trade Agreements Act, is constitutional.

The amendment of the Senator from Nevada provides, in effect, that trade agreements—think of it for a moment—are not the ordinary commercial agreements which come under article I of our Constitution, providing for the regulation of commerce with foreign nations, but that they are treaties; and, being treaties, that these agreements must be made by the President and ratified by the Senate of the United States, two-thirds of the Senators present concurring. Well, what becomes of the House in this shuffle?

Let me read, just a moment, as to the rights of the House of Representatives. Article I, section 8, of the Constitution in part provides as follows:

Congress shall have power * * * to regulate commerce with foreign nations.

The amendment of the Senator from Nevada provides, indirectly, that trade agreements shall be considered as treaties, and that they must be ratified by the Senate; in other words the Senate and the President hereafter would make all trade agreements. Under the provision of the Constitution to which I have referred, the House and the Senate have the power now to do what? To pass tariff bills? Oh, no. To regulate commerce with foreign nations; and it has been held from the beginning of the history of this Government, for over 150 years, that these agreements are not treaties. They have been put on a different plane. As I have stated, more than a thousand of them have been made in our history. They never have been made as treaties. They have always been made as trade agreements, not reaching the dignity of treaties. The House of Representatives has participated.

The House participated in the passage of the law we are now considering extending. The House has power, in part, to regulate commerce with foreign nations. If the amendment of the Senator from Nevada should be enacted, the provision of the Constitution to which I have referred would be nugatory. The House hereafter would not have anything to do with making trade agreements. The House would have nothing to do with the passage of laws regulating commerce with foreign nations. It would deprive the House of its express constitutional authority and impose that duty on the President and the Senate.

It is not a question of whether the House is willing or unwilling to have that done. It is a question of whether we are to stand by the Constitution of the United States. Why should the Senate and the President arrogate to themselves alone a power which is expressly given to them jointly with another body?

The Supreme Court has upheld this particular way of regulating commerce.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. PITTMAN. The Senator is showing a great deal of concern for the House of Representatives.

Mr. McKELLAR. No; I am showing a great deal of concern for the Constitution of the United States. I have held up my hand four times now and sworn before Almighty God that as a Senator of the United States I would uphold and defend and protect the Constitution of the United States.

Mr. PITTMAN. I do not doubt that the Senator will do so to the best of his knowledge and ability. So far as the House is concerned, in the Dingley Tariff Act of 1897 the House of Representatives, in initiating the trade agreements, as they did at that time—it was before we had Presidents initiating them—provided in section 4 for the negotiation and adoption of reciprocity treaties, just as we are now providing. What did they provide in the act? They realized then that they could not by an act dispose of the constitutional functions of the Senate, and they wanted to preserve the rights of the House; so in the bill which they passed they provided that this kind of treaties, reciprocity treaties, should first be ratified by the Senate by a two-thirds vote, and thereafter be ratified by the Congress.

Mr. McKELLAR. I am frank to tell the Senator that I do not think that arrangement was in accordance with the Constitution at all, and I doubt whether the Senator believes it was.

Mr. PITTMAN. I think it was. I think that the House of Representatives, when delegating authority, can put any limitations on the delegation they desire; but I do not think the House of Representatives, if they see fit to delegate all of their functions, can by the same act in which they do so take away the functions of the Senate. What they tried to do in this matter was to indicate that they were willing to delegate legislative authority to the President, and at the same time they wanted to say in the act, "And we will not bother you with the constitutional provision as to ratification by the Senate." They may delegate their authority legally, but they cannot in an act provide that if the Constitution requires ratification the agreement provided for does not have to be ratified.

Let me ask the Senator a question and I will not bother him again. There seems to be a kind of mystery as to what the word "treaty" means. Of course, I know the Senator knows. A treaty is an agreement, is it not?

Mr. McKELLAR. Yes; but it is different from a trade agreement.

Mr. PITTMAN. The Supreme Court has said that it is a contract between two sovereign powers with regard to public welfare. Is not that correct?

Mr. McKELLAR. That is true.

Mr. PITTMAN. If the kind of an agreement contemplated, between our Government and a foreign government, with the power given to fix all of our tariff rates within 50 percent, for a period of 3 years, which we cannot go back on, which cannot be repealed by Congress or otherwise, is not a contract, what is a contract?

Mr. McKELLAR. I do not agree with the Senator on the proposition at all, for the reason, first, that the Constitution is against it; and, secondly, our uniform course of legislation for 150 years has made a distinction between trade agreements and treaties, in the ordinary and accepted sense of the word "treaty." Of course, both are contracts—one a temporary, the other a permananent arrangement, ordinarily, with some exceptions. That is the main distinction, but it is a distinction which the Congress, since 1789, has upheld; and I am quite sure the Senator has voted to uphold the distinction in the past, just as I have, and I still think that distinction is correct. Otherwise our forefathers would not have provided, as they did, that trade agreements—keeping in mind that they are trade agreements—should be made under article I, section 8, of the Constitution, which provides that the Congress shall have power—not the Senate and the President, but the Congress shall have power—to regulate commerce with foreign nations; and the Congress is regulating that commerce with foreign nations under the law now proposed to be extended.

Another reason why trade agreements are not treaties is because the Congress is fully authorized by the Constitution and our Supreme Court to make these treaties.

As stated, if we undertake by law to make these trade agreements treaties, we are denying to the House of Representatives the power to have any part in regulating commerce with foreign nations. If this amendment is adopted and becomes the law, hereafter all agreements regulating trade under section 8 of article I of the Constitution will be negotiated by the President and approved by two-thirds of the Senate, and the House will be deprived of its constitutional right as expressed in article I, section 8.

The treaty-making power is given in article II, section 2, of the Constitution, and is as follows:

> He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

If we adopt this amendment, we shall deprive the House of its constitutional right to have anything to do with trade agreements. The President, under his treaty-making power, may negotiate any trade agreement he desires, send it to the Senate, have it confirmed by two-thirds of the Senators present, and it will be the law of the land.

Mr. President, our founding fathers knew exactly what they were doing. They provided that the Congress should make the tariff duties and regulate commerce under them; and everything that pertains to them is under the domination and control of the Congress. But when it came to treaties—that is, permanent agreements made and entered into between the governments of the world—they were to be made by the President by and with the advice and consent of the Senate, two-thirds of the Senators present concurring.

Trade agreements are temporary in their nature, and for the purpose of regulating trade and commerce between the countries. The agreements authorized under article II, section 2—that is, treaties—are permanent, and deal with matters concerning permanent relationships of sovereign governments. This is the true distinction, first stated in separate articles of our Constitution, next stated in the uniform practice of our Government from its beginning until the present moment, and lastly upheld by the Supreme Court of the United States.

So, Mr. President, in my judgment there can be not the slightest doubt about the constitutionality of the trade agreements carried in the bill; but for Congress, by its ipse dixit, to declare such agreements treaties, provide for their confirmation by the Senate, and deprive the House of its constitutional powers to join in the regulation of foreign commerce, is itself unconstitutional.

In other words, the trade-agreements policy is first constitutional under the express terms of the Constitution, and in addition to that its constitutionality has been upheld by the Supreme Court of the United States. On the other hand, the Pittman amendment would deprive the House of Representatives of participation in the express grant of power to

the House to take part in regulating commerce with foreign nations and, therefore, is unconstitutional.

Another objection raised to the Trade Agreements Act is that such agreements would bind future Congresses for 3 years. That is true; but why not? What possible objection can there be to that? If one Congress authorizes the President or a department to enter into an agreement of any kind, foreign or domestic, for 3 years, that Congress would bind subsequent Congresses for a period of 3 years. Carrying out a contract with a foreign country is a matter of moral obligation, just as carrying out a contract with a citizen of our own country is simply a moral obligation. Future Congresses, of course, are morally bound. So, if we could legally do so, if we should make a trade agreement and it should be ratified by the Senate under this amendment, Congress would be bound by it for a period of 3 years just the same.

A tariff act itself cannot be the only way to regulate commerce. That is the substantive way; that is the way in which the Congress deals with the matter; but surely it cannot be expected, and never was expected by our forefathers, that Congress could fix each rate, could determine each one of the many thousands of rates, in order to regulate commerce. So the Supreme Court has held that that is not the duty of the Congress. The Supreme Court has held that we may delegate, to a tariff board, or to the President, power to regulate, under the terms of the Constitution, trade and commerce with foreign nations.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. PITTMAN. Can the Senator refer me to a case decided by the Supreme Court in which it has ever held that the President could, by agreement or otherwise, put into force and effect anything except tariff duties specified in the act authorizing him?

Mr. McKELLAR. Yes. There are cases exactly similar in principle, almost exactly the same in wording, with the exception of authorizing a commission instead of the President; and the President being constitutionally in charge of all our foreign dealings himself, surely if we can give that power to a board, we can give it to the President of the United States.

The opinion in the Hampton case, which was by Chief Justice Taft, held that identically the same thing provided here could be done, with a very slight exception which does not affect the principle at all.

Mr. PITTMAN. Mr. President, will the Senator further yield?

Mr. McKELLAR. I yield.

Mr. PITTMAN. The Hampton case dealt with a situation involving purely domestic affairs, a provision which may be terminated by congressional action at any time we see fit. In the present case we are dealing with contracts made with foreign governments; and I ask the Senator to cite a case dealing with foreign commerce wherein the President has been authorized to do anything except put into effect the duties prescribed in the act.

Mr. McKELLAR. Mr. President, if the Senator asks me to cite a case which upholds the constitutionality of this particular act, and which is in harmony with other cases which have been upheld by the Supreme Court—in other words, if the Senator asks whether or not this act has been challenged and the Supreme Court has upheld it—I answer that, as I understand, no such case exists; but that exists which is just as strong. No one has challenged the constitutionality of the Trade Agreements Act, although it has been in force for 6 years. No lawyer, so far as I know or have been able to find, has brought a suit challenging its constitutionality.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. AUSTIN. I should like to ask the Senator from Tennessee a legal question; and that is, if in his opinion anyone would challenge the constitutionality of this particular statute until he had suffered a financial injury either through the raising of rates or the unlawful application of import restrictions referred to in the act?

Mr. McKELLAR. Of course the Senator is right that the act cannot be challenged until injury has occurred. Some of these rates have been in force for years. Some persons have told me they have been very greatly injured by them, but have not been sufficiently injured to challenge the constitutionality of the act, or else they had legal advice to the contrary, and in any event they have not challenged the constitutionality of the act.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. McKELLAR. I will yield only for a question, because my time is limited.

Mr. McCARRAN. I only wish to make the statement, which I hope the Senator will amplify, that it would be impossible for anyone to bring his case to the court of last resort under the language of the existing statute. If the Senator wishes to challenge that statement I shall be glad to have him do so, and to amplify his challenge.

Mr. McKELLAR. I believe there is only one concern in my State, so far as I can now recall, which has felt aggrieved by the change in duties made by the Executive under this act. The duties were modified, and when modified that concern had a right to say whether or not the modification injured it. It said it was injured thereby, and it had a right to sue; but, upon reflection, it concluded not to sue, and has not sued, so far as I know.

Mr. President, there cannot be any question that under the present act the President has power to change the duties upward 50 percent or downward 50 percent. I think I need not go further into that matter.

I have already discussed treaties, so I need not go further into that matter.

Mr. President, I next come to the policy of the Trade Agreements Act. I wish to confess that when the trade-agreements measure was brought before the Senate in 1934 I had some grave misgivings, not with respect to its constitutionality, but concerning its policy. I did not know how that which was proposed by the measure could be effectively done. I wish to say to the Senate that never have I been more agreeably surprised in my life that when I found what was done, and how successfully it had been done. There has been very little complaint—of course, there has been some—with respect to the change in the rates. But let us see what has happened under the Trade Agreements Act.

Mr. McCARRAN. Mr. President, will the Senator further yield?

Mr. McKELLAR. I should prefer not to yield at the moment. If the Senator will withhold his question for a moment, I will then yield to him.

Mr. McCARRAN. Very well.

Mr. McKELLAR. Twenty-two agreements with other countries are in force and operative, including countries and their dependencies in some cases, such, for example, as the Netherlands and her East Indian dependencies. Twenty-two contracts have been made and have gone into effect. Four others have been made, but they have not gone into effect. What has been the result of these contracts? Have they been hurtful to the United States? Since they have been entered into there has been a 42-percent increase in our exports to these 22 nations and dependencies. What about our imports? The imports from these nations and their dependencies have increased only 15 percent. So there is a net increase of exports over imports of 27 percent; and when we consider the enormous increase in our foreign trade, 27 percent represents a tremendous amount of money. I shall go into that matter in a moment. So I want to say that I have never been more agreeably surprised and delighted than I have been in the working out of the trade agreements under the administration of Secretary Hull, as I shall hereafter more fully point out.

I now yield to the Senator from Nevada, and I hope he will make his question short.

Mr. McCARRAN. Mr. President, does the Senator believe, or will he contend, that more beneficial results have flowed from this system of legislation than could have flowed from one which was constitutional?

Mr. McKELLAR. Mr. President, I think we have applied a constitutional system to this matter.

Mr. McCARRAN. Will the Senator answer my question?

Mr. McKELLAR. Indeed I will; but there is something else I wish to say, and I ask the Senator to rise later and ask me the question he has in mind.

Mr. McCARRAN. Very well.

Mr. McKELLAR. Mr. President, let us see under what circumstances this legislation was passed. The new administration had already taken care of domestic questions. We had passed laws to put agriculture on a more permanent and prosperous foundation. We had passed laws providing for the absolute security and soundness of our banking institutions. We had passed laws for the protection and improvement of industry. We had passed laws for the protection of the unemployed. We had passed laws putting labor in our country in a position in which it might enjoy the fruits of its work. We had passed laws for the protection and security of our home owners and our farm owners. We had passed laws for the relief of the hungry and helpless. All of these laws were denounced and criticized, but time has proven the efficacy of all of them.

All these things were done before we went into the question of our commerce with foreign nations.

In order that we may see more fully the practical working out of the trade agreements it is necessary for us to consider the condition of our country when this administration came into power in March 1933. When Secretary Hull went into office on March 4, 1933, the economic condition of this country had never been worse. Agriculture was bankrupt. Industry was bankrupt. Right now I am looking into the face of a Senator in whose State great institutions were either in dire straits or in actual bankruptcy. Our banks were bankrupt. The country was in a deplorable condition, and commerce with foreign nations was even at a lower ebb than was our domestic trade and commerce. Between 1929 and March 1933 the aggregate national income of our people had fallen from $81,000,000,000 to $40,000,000,000, in round numbers. Wages and salaries in manufacturing industry had dropped from $15,000,000,000 to $7,000,000,000. Nonfarm employment had dropped from $36,000,000,000 to $27,000,000,000.

Mr. President, what happened? The first thing we did was to get the banks out of bankruptcy and put them on a solid foundation, guaranteeing their deposits under the best banking system we have had, under one of the ablest men I know, the head of the F. D. I. C., Mr. Leo T. Crowley, one of the ablest, most efficient, and finest men in the Government service. We put the banks on a solid foundation, and they have remained on that solid foundation ever since.

Then we undertook to put agriculture on the same sort of solid basis, or to restore it as far as we could; and we made great strides in that direction.

We undertook to restore industry, and we have made wonderful strides in that direction.

We undertook to increase the wages of labor all over the country, and we have made wonderful strides in that respect.

But what was lacking in what we were doing in a domestic way to give us true success? We lacked foreign trade. Our friends on the other side of the aisle for a long time tried to make it appear that foreign trade meant very little to this country; that all that it was necessary to do was to raise a tariff wall. They thought all they had to do was to raise a tariff wall, first, like the Payne-Aldrich Tariff Act, later the Fordney-McCumber Act, and still later the Hawley-Smoot Act. Their theory was, "Raise the tariff rates, pay no attention to foreign trade, and the country will be prosperous."

But in 1929 all those things went by the board, and we were in the direst distress. We first took care of domestic problems, as I have very briefly outlined. After that, what happened in 1934?

Mr. McCARRAN. Mr. President, will the Senator yield at this point?

Mr. McKELLAR. I yield. Will the Senator repeat his question?

Mr. McCARRAN. I wish to propound another question.

Mr. McKELLAR. I will ask the Senator first to repeat the question which he previously asked. I yielded for that purpose.

Mr. McCARRAN. Does the Senator believe that more effective results have flowed from the application of the present law than would flow from a constitutional application of the law, in which Congress would be the appraiser of the law?

Mr. McKELLAR. If the Senator will sit down, I shall be glad to answer that question.

Mr. President, I have been in Congress a long time. I first came to the House of Representatives in 1911. We Democrats were then complaining of the iniquities——

Mr. McCARRAN. Mr. President——

Mr. McKELLAR. Wait a moment. I do not yield now.

Mr. McCARRAN. But the Senator is avoiding the question.

Mr. McKELLAR. I never avoided a question in my life. If the Senator will be good enough to bear with me for just a moment, I shall answer his question. The Senator has asked a question, and I wish to answer it.

Mr. McCARRAN. Why does not the Senator answer it "Yes" or "No"?

Mr. McKELLAR. I will answer the question in my own way if the Senator will resume his seat for a moment.

We promised the people of the country in the Wilson administration that we would revise the tariff according to the method suggested by the Senator from Nevada. When we came in, Mr. Oscar Underwood, our leader in the House, chairman of the Ways and Means Committee of the House, introduced a bill reducing the high tariff rates which then existed. I was in the House at the time. I do not speak from hearsay. I speak from actual knowledge. At that time Washington was full of lobbyists. I see my distinguished friend whom I love very dearly, the Senator from South Carolina [Mr. SMITH], smiling when I make that statement. He was in the Senate at the time. He knows that what I say is true. Representatives of the predatory, selfish interests were here in such great numbers that sometimes one could not be sure whether or not they were members of one of the congressional bodies.

Mr. McCARRAN. Mr. President, will the Senator yield? I can help the Senator very much.

Mr. McKELLAR. Mr. President, I wish to reply to the Senator. I cannot yield now. I beg the Senator to excuse me for just a moment.

Mr. McCARRAN. I can help the Senator, if he wishes to have me do so.

Mr. McKELLAR. I do not wish to be helped. I am capable of making my own speech.

I wish the Senator could have been in Washington when all that logrolling was going on. Every man who had a factory came to Washington to have the protective rates left in effect for the benefit of his factory, and taken off with respect to some other factory. There were agreements among Representatives, and agreements among Senators. There was logrolling in its worst sense. I see the Senator from West Virginia [Mr. NEELY] in the Chamber. He was in the House at the time. He knows that what I say is true. Every selfish interest was here undertaking to increase the tariff, and imploring us, "For God's sake, increase the tariff rates a little on this, or a little on that."

What was the result? Under the so-called constitutional method suggested by the Senator from Nevada [Mr. McCARRAN], the Underwood tariff of 1913 was one of the greatest regrets of the Democratic Party at that time.

Mr. McCARRAN. Then the Constitution is a failure, is it?

Mr. McKELLAR. No; the Constitution is not a failure.

Mr. McCARRAN. Then Congress is a failure?

Mr. McKELLAR. No. We did not regulate as we propose to regulate under the reciprocal-trade agreements. The Senator from West Virginia [Mr. NEELY] can bear witness to what I say. Lobbyists in behalf of the selfish interests were everywhere. We even had to pass a resolution barring lobbyists from the House of Representatives.

Mr. McCARRAN. Mr. President, will the Senator yield for a question?

Mr. McKELLAR. Will the Senator please allow me to proceed?

Mr. McCARRAN. Does the Senator now say that Congress is so cowardly that it cannot withstand lobbyists?

Mr. McKELLAR. The Senator says no such thing.

Mr. McCARRAN. What does the Senator say?

Mr. McKELLAR. I say that this Congress is independent enough, courageous enough, and honest enough to pursue a plan which will regulate commerce with foreign nations without undergoing all the things which I have enumerated.

Mr. NEELY rose.

Mr. McKELLAR. Mr. President, I shall be glad to yield to the Senator from West Virginia in just a moment.

Mr. Hull, the present Secretary of State, was at that time in Congress. He was a member of the Ways and Means Committee of the House. He knew what logrolling there was when a tariff bill came up. The Senator from West Virginia [Mr. NEELY] and other Senators were in the Senate in 1922 when the Fordney-McCumber bill came up. My heavens! The big interests descended upon Washington like the grasshoppers out in the State of the Senator from North Dakota [Mr. NYE]. He tells me they sometimes darken the sky. Lobbyists in Washington were as thick as grasshoppers. They were logrolling. They were reaching Senators and Representatives in any way they could. Who knows it better than Cordell Hull, who was in Congress at the time, or the Senator from West Virginia [Mr. NEELY], or myself? We were in Congress in 1930 when the Smoot-Hawley tariff measure was passed. A lobbying expedition was in full swing.

Mr. McCARRAN. Mr. President——

Mr. McKELLAR. Will the Senator excuse me for a moment? I promised to yield first to the Senator from West Virginia [Mr. NEELY]. I know he will wait.

What was the situation? Mr. Hull knew the situation as well as did anyone else.

Mr. McCARRAN. Does the Senator believe——

Mr. McKELLAR. Just a moment.

Mr. McCARRAN. I merely wish to ask a question.

Mr. McKELLAR. Will the Senator please resume his seat for a little while?

The PRESIDING OFFICER. The Senator from Tennessee declines to yield.

Mr. McKELLAR. I love the Senator, but I do not want him constantly interfering with the thread of my thought.

The PRESIDING OFFICER. Senators will please not interrupt the Senator from Tennessee, unless he agrees to yield.

Mr. McKELLAR. I shall be very happy to yield in a little while.

Mr. President, I say without fear of successful contradiction on this side of the aisle or on the other side of the aisle that the President was unusually fortunate in the selection of Cordell Hull as Secretary of State.

Mr. McCARRAN. Mr. President——

Mr. McKELLAR. I beg the Senator——

Mr. McCARRAN. The Senator has called for a reply.

Mr. McKELLAR. I understand that the Senator objects to Mr. Hull. Is that correct?

Mr. McCARRAN. No, no.

Mr. McKELLAR. I decline to yield, Mr. President.

Mr. McCARRAN. Mr. President——

Mr. McKELLAR. I decline to yield.

The PRESIDING OFFICER. The Chair reminds Senators that they may obtain recognition only by addressing the Chair, and may ask questions only if the Senator from Tennessee agrees to yield. The Senator from Tennessee says he declines to yield.

Mr. McCARRAN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCARRAN. The Senator has stated that he challenges any Senator on either side of the aisle to contradict a certain statement which he has made. It is my position—I may be wrong, and I shall take the ruling of the Chair—that any Senator on either side of the aisle has the right to answer the challenge.

Mr. McKELLAR. Mr. President, I decline to yield.

The PRESIDING OFFICER. The present occupant of the chair is of the opinion that if the Senator did issue a challenge, he wants it to be accepted at a later time. The Senator from Tennessee has the floor, and he declines to yield.

Mr. McKELLAR. I shall be delighted to yield to my friend if he will not constantly bob up and undertake to interfere with the continuity of my speech. The Senator has plenty of time to speak on this, or any other subject. The other day he spoke for 2 hours, unmolested. There is no reason why he should constantly attempt to interrupt me.

Mr. McCARRAN. I beg the Senator's pardon. I shall not do so any further.

Mr. McKELLAR. Mr. President, the President of the United States was particularly fortunate in the selection of Mr. Hull as Secretary of State. Mr. Hull was born in Tennessee. He was educated at Cumberland University. He was a soldier in defense of his country in the Spanish-American War. He became a member of the State legislature. Later he was elected and served as judge of one of the circuit courts of Tennessee. He was then elected to the House of Representatives and served in that body for 22 years. He commanded the respect, esteem, and admiration of every Member of the House, irrespective of party politics or any other consideration. Afterward he was elected a United States Senator from the State of Tennessee, and he served in this body for 2 years.

When the President was elected, after looking all over this great country for able men to head his administration, he sent for Mr. Hull and made him Secretary of State. I say it was a marvelous piece of good fortune for Mr. Roosevelt that he selected Mr. Hull. Why do I say it? Mr. Hull was fitted for the office by education, by training, by judicial poise, by experience at home, by a remarkable experience in the House of Representatives, by service on the Ways and Means Committee, and by reason of being an expert on tariffs and foreign trade. No man could have been found who had a clearer knowledge of our foreign trade than did Mr. Hull. He had been, in very large measure, the author of a tariff bill and other bills affecting foreign trade. He had made a success of his efforts along that line.

While I am referring to him I know the Senate will pardon me for saying that I have known Cordell Hull for more than a quarter of a century. He is highly educated; he is able; he is vigorous; he is determined; he is familiar with his duties; and, over all and above all, he is the noblest work of God in that he is an honest man. Never has there been the slightest suggestion to the contrary. In all his long public life, now extending over a period of 48 years, never has it been intimated that Cordell Hull was not the soul of honor, that he was not a noble man. As I look over on the Republican side, I may say, in the best of spirit, that if Cordell Hull belonged to that side of the Chamber instead of to this, every last Republican Senator would be singing his praises today, because he is sane; he is able; he is progressive; he has those gifts and talents that qualify him for the performance of the highest duties in the service of the American people. So, if he was a member of the Republican Party, Republican Senators would not only be singing his praises but I imagine that many of them would be willing to stand aside and let him take a place of even higher preference in the Government of the United States. I wish to say here as a personal friend of Mr. Hull for a period of more than a quarter of a century, knowing how he has fulfilled every duty of life, how able and efficient he was as a legislator, as a circuit judge, as a Representative in Congress, as national chairman of the Democratic Party, as a Senator, and as Secretary of State, I regard him as one of the great living statesmen of his age, and, in my judgment, history will accord him such a place. So, when the President came to select his Cabinet he put Mr. Hull at the head of it.

Mr. Hull knew all about logrolling; he had seen it in person and had been the victim of it.

Since I spoke a moment ago about other times in the House of Representatives there has come into the Senate

Chamber and taken his seat another distinguished former Member of the House at the time Mr. Hull was there. I refer to the Senator from Nebraska, Mr. GEORGE W. NORRIS, who was a very distinguished Member of the House of Representatives at that time, just as he is an able and outstanding Senator at this time. He knows what I say is true.

So, when Mr. Roosevelt sent for Mr. Hull and talked to him about the tariff situation, who knew better about the logrolling in connection with the Underwood bill and the McCumber-Fordney bill and the Smoot-Hawley bill than did Mr. Hull? Who knew better than Mr. Hull about the failure, in part, of the Underwood tariff law, for he took part in the framing of that famous measure? Who knew better? No man in this country knew those facts better than did Cordell Hull. What was the result? The result was that Mr. Hull—I have never talked with him about it in my life; I am speaking of what I believe took place at the time—said if we should undertake to deal with the tariff by the old logrolling process, which we had done so often and had gotten burned every time, even on our own side, we would never get anywhere. So he proposed that we should follow the express terms of the Constitution when it says that Congress shall have the power to make agreements with foreign countries. He took the Smoot-Hawley law just as it was; he did not attempt to change it in the slightest degree, but simply suggested the trade-agreements bill under which the President would be allowed, in accordance with the terms of the Constitution, to regulate commerce. If the Trade Agreements Act has not been a success, who can produce the facts to prove that it has not been a success? When it increased our foreign trade from $1,600,000,000 in 1934 to $3,160,000,000 in 1939, who can say that it has not been a success?

It is said the program is operating in the interest of foreign countries. I deny it. Why do I deny it? I repeat that the facts show that under the 22 agreements which have been negotiated our exports have increased 42 percent, while imports from other nations have increased only 15 percent. That is a difference of 27 percent, or more than one-fourth of all our exports.

Furthermore, note what has been accomplished in specific instances. Our cotton exports last year were only a little over a million bales; this year we have already exported nearly two and one-half million bales.

I am looking into the face of the distinguished Senator from Michigan [Mr. VANDENBERG], for whom I have the greatest respect, and for whose ability and honesty and sincerity I have likewise the greatest respect. I ask if the trade agreements have hurt the automobile business in his State? No. They have not hurt, but have greatly aided the automobile business everywhere. The trade agreements have increased our business over 27 percent. They have been a success from the beginning. In the first year when any of the agreements were in effect, I happened to be so lucky as to take a trip around the world, and I found Fords and Buicks almost everywhere. I traveled, in part, across the Arabian Desert in a Buick. All those cars came from the State of Michigan. They have been sold everywhere. Why? Because we have, under this constitutional system, regulated foreign commerce so as to be able to sell our goods and wares all over the world, and we have not tried to take everything, as was done under the Smoot-Hawley tariff bill.

I am glad the Senator from Michigan is present, as I wish to refer to the argument ably presented by him 2 or 3 days ago. There are several statements I want first to challenge and then to answer if I may. I think he is wrong on his proposal, and the arguments that he made Wednesday cannot be sustained.

I quote from the Associated Press summation of his arguments:

1. The trade-agreements law is unconstitutional.
2. It is "economic dictatorship come to America."
3. It is driving the country to a basis of uncompensated low tariffs "which will ultimately wreck us."
4. War and post-war trade competitions involve a multitude of dangerous trade weapons which the agreement law cannot touch.
5. It is not working and cannot work as intended.
6. The alternative is to provide "a concentrated foreign trade authority which can cope with all the external-trade penalties which American export increasingly confronts."

Now, I desire to comment on each of these statements.

The Senator first says that the Trade Agreements Act is unconstitutional. I have already discussed this question, and have shown, I believe, that it is constitutional. It is inconceivable to me that if such acts are unconstitutional we have made them all during our history, amounting in number to more than 1,000. I do not believe this contention of the Senator from Michigan is correct.

Our Supreme Court has decided otherwise and has decided the same principle so often that although this law has been in force for 6 long years, no one has challenged its constitutionality.

The second argument of the Senator from Michigan is this:

It is "economic dictatorship come to America."

The next two I want to take out of their order. I skip 3 and 4, and read No. 5:

It is not working and cannot work as intended.

It cannot be a dictatorship if it is not working and cannot work. I have noticed, in my limited experience, that dictators usually work. If the "economic dictatorship" that has come to America, in the view of the Senator from Michigan, is so inoffensive and so unworkable, it cannot be a dictatorship; or, if it is a dictatorship, it cannot mean anything to the American people. I say it is not an economic dictatorship, and I say it is working. The Senator will find, if he will look at the figures, that nowhere in this Nation is it working better than in the good State of Michigan. He will find that the sale of automobiles, for which his State is famous, has gone up by leaps and bounds, and his State is receiving the benefit of it.

Mr. VANDENBERG. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Michigan?

Mr. McKELLAR. Yes; I yield.

Mr. VANDENBERG. I do not care to interrupt the Senator each time I disagree with his statements respecting my previous address, though I should not want my silence to indicate consent to the Senator's rather extravagant analysis; but——

Mr. McKELLAR. Wait one minute. I am not analyzing the Senator's speech. The Associated Press, which I consider the greatest and fairest news-gathering agency in all the world, has printed this analysis of the Senator's address, and it has been published without denial in every newspaper in the United States.

Mr. VANDENBERG. Every quotation which the Senator is making from the Associated Press is accurate and correct.

Mr. McKELLAR. Oh. Now we are getting somewhere.

Mr. VANDENBERG. Yes. The dissent which I registered was to the Senator's observations upon the statements in the Associated Press article. I just want to comment upon the final observation which the Senator submitted to me that the trade agreements are responsible for a tremendous increase in exports of automobiles.

Mr. McKELLAR. Not wholly, but very largely.

Mr. VANDENBERG. All right; very largely.

The automobile exports were $280,000,000 in 1939. They were $250,000,000 in 1935, a year before the trade agreements were fully in effect. The increase in automotive exports is 85 or 90 percent due to the recuperation in world consumptive buying power, and not to the Trade Agreements Act at all. Nevertheless, as I said in the address to which the Senator refers, the State Department has been completely considerate of the automobile industry in connection with these negotiations.

Mr. McKELLAR. It certainly has.

Mr. VANDENBERG. I expressed my gratitude to the Department. I simply dissent from the analysis of the resultant figures.

Mr. McKELLAR. Mr. President, I do not agree with the Senator that world conditions have brought about the improvement in the automobile trade. I believe it is principally due to the great, constructive measures of this administra-

tion, which have restored our whole country, which have given us a better buying power, which have given labor a better wage throughout the country and made people prosperous. That is the first thing; but the next thing, very close to it in importance, is the trade agreements.

The Senator from Michigan then makes the argument that the trade-agreements law is driving the country to a basis of uncompensated low tariffs which will ultimately wreck us. That contention cannot be sustained. It is true that our tariff duties are lower, but, on the other hand, the tariff duties of foreign countries with which we made these agreements are lower; and therefore there can be no injury, since the duties of both countries are lower. The present law facilitates trade. It builds up commerce. It builds up trade, as our figures of 42 percent as against 15 percent will show. So I think it is almost manifest that this position which the Senator from Michigan takes is incorrect.

The fourth position which the Senator from Michigan takes is this:

War and post-war trade competitions involve a multitude of dangerous trade weapons which the agreement law cannot touch.

This is a generality, and ordinarily would not require an answer; but the answer is so specific and so certain that I feel that it ought to be given here.

Suppose we had the Smoot-Hawley Tariff Act in force in its original terms, as we shall have unless the Trade Agreements Act is extended. How would it be possible for us to deal with the subject for America at all? We should simply be hedged in by the highest tariff wall in the history of our country, with no possible method of obtaining trade from foreign countries. That seems to be manifestly true.

Lastly, I come to argument No. 6, which is a suggested alternative. The Senator from Michigan would have—

A concentrated foreign-trade authority which can cope with all the external trade penalties which American export increasingly confronts.

That is exactly the same thing in principle as the present law. I have not seen the Senator's proposal other than as stated here, but it necessarily would be on the same principle as the present Trade Agreements Act. The President is certainly a "concentrated foreign-trade authority," and no authority we could set up would be as concentrated as the President, because the President has other powers in regard to foreign affairs which make him the most concentrated power of all. But if such an authority were set up, how could it cope with external trade penalties? Of course, that would bring on an economic warfare which would injure trade and not help trade; and for these reasons it seems to me the argument of the Senator from Michigan is not sound.

By the way, the Senator's question leads me to say another thing. The Senator denounces Secretary Hull's trade agreements, if we may call them Secretary Hull's trade agreements, and I think we may.

Mr. VANDENBERG. Yes.

Mr. McKELLAR. The Senator says "Yes," and I endorse his statement. Less than 6 months ago almost every Member on the Republican side of the aisle—as I recall, the Senator from Michigan was one of them—was denouncing another measure which had been proposed by Secretary Hull. It was a neutrality measure. The Senator remembers and all of us remember that when the neutrality measure was before this body about 4 or 5 months ago, Senators on the other side of the aisle were saying that it was going to get us into war; it was going to destroy peace; it was going to destroy returning prosperity; it would ruin the country. That was the substance of the criticisms that were made. Were your criticisms right then? Are we not at peace? We are not at war. There is no prospect of our getting into war; yet the neutrality law has been on the statute books for nearly 4 months. You were wrong then, and you are wrong in this instance.

This is another proposal of Secretary Hull. He did not send it up here haphazard. He worked over it for nearly 2 years before it was sent to the Congress. He took your law and then, under the power to regulate commerce, he applied the facts in individual cases and individual countries to your law, which was the highest tariff law we had ever had. He applied to that law the constitutional power to regulate commerce, and the act which resulted is going to be a success. It has already been a success. If we have increased our trade with 22 foreign countries by a net amount of 27 percent or by a gross amount of 42 percent, we shall do the same thing with the other nations when we make trade agreements with them.

You may talk about the failure of his Neutrality Act as you did talk about it. You are silent about it now. You may talk about his Trade Agreements Act as you are doing now, but you will be silent about it in a short period of time, just as you are now silent about the Neutrality Act.

Mr. President, this is no time for politics. This is no time for division along party lines, just as last fall was no time for division along party lines. We passed a neutrality law at that time. Did you ever hear of a criticism of the way in which it has operated? I have not seen the word "neutrality" in the newspapers for weeks, so far as I can recall. Certainly I have not seen it in any prominent place in the newspapers for that length of time; yet 4 or 5 months ago nearly every newspaper in the country was denouncing the neutrality law as being certain to get us into war; just as many of them now are denouncing the Trade Agreements Act as being unconstitutional and as getting us into economic trouble. Within 3 months after its passage—as it will pass, in my judgment—you will cease criticizing this measure, and you will be criticizing some other administration measure.

Mr. McCARRAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Nevada?

Mr. McKELLAR. Yes.

Mr. McCARRAN. I desire to join the able Senator from Tennessee in paying a great tribute to the able Secretary of State, Mr. Hull; and I should like to do it in his own language, if I may, by reading a very short excerpt from the CONGRESSIONAL RECORD which is his crowning glory and his greatest achievement, in language or otherwise. Will the Senator kindly permit its insertion in the RECORD? It is very short.

Mr. McKELLAR. Very well. Anything that will reflect the honor and integrity and conspicuous public service of Cordell Hull I will always agree may come before the Senate and before the country.

Mr. McCARRAN. I read this excerpt from the remarks of the Secretary of State when he was a Member of the House of Representatives because, in my judgment, it is his crowning glory. It is the greatest statement he ever made.

He said:

Mr. Chairman, the proposed revision provides in effect that the valuation by appraisers shall be final except by appeal to the Secretary of the Treasury. This astonishing proposal strips bare the jurisdiction of the Customs Court and its authority to adjudicate unquestioned and hitherto unchallenged rights of the citizens. This is bureaucracy run mad. The very suggestion that the most valuable property rights of the citizen can be disposed of or dealt with as a finality by the Treasury Department with the slightest recourse to the courts of the country is wholly impossible to understand.

The proposed enlargement and broad expansion of the provisions and functions of the flexible-tariff clause is astonishing, is undoubtedly unconstitutional, and is violative of the functions of the American Congress. Not since the Commons wrenched from an English king the power and authority to control taxation has there been a transfer of the taxing power back to the head of a government on a basis so broad and unlimited as is proposed in the pending bill. As has been said on a former occasion, "this is too much power for a bad man to have or for a good man to want."

Mr. McKELLAR. Mr. President, will the Senator give the date of that statement by Judge Hull?

Mr. McCARRAN. It was made on May 13, 1929, on the floor of the House of Representatives.

Mr. McKELLAR. My recollection is that it was even before that; but, however that may be, since that statement was made the Supreme Court has rendered an opinion which forever settled that question. It was held that the Congress, under its constitutional power, may do precisely what Judge Hull has recommended in regard to these trade agreements.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CLARK of Missouri. Let me say that, as the Senator from Tennessee has suggested, the Supreme Court of the United States on several different occasions, since the statement of the present Secretary of State to which the Senator from Nevada has referred, has overruled that view, and has decided that the flexible provisions of the tariff were constitutional; and to my mind by that decision they decided the present case.

Mr. McCARRAN rose.

Mr. CLARK of Missouri. Just a moment. Let me say further, if the Senator from Tennessee will permit me for just a second——

Mr. McKELLAR. I yield.

Mr. CLARK of Missouri. In all the long hearings before the Committee on Finance of the Senate, either the Senator from Mississippi, the chairman of the committee, or I myself, in the case of every witness who appeared before the committee asked him whether the industry he represented had been injured in any way by the operation of the reciprocal trade agreements statute, as administered by the present Secretary of State, and with only two or three exceptions everyone of them admitted that they had not been hurt. Some of them admitted that they had been benefited, and some of them said they were afraid they might be hurt sometime.

Mr. McCARRAN. Mr. President, will the Senator from Tennessee yield?

Mr. McKELLAR. The Senator from Missouri is quite correct. I yield to the Senator from Nevada.

Mr. McCARRAN. Let me say that the final word on this entire subject was spoken by the Supreme Court of the United States in the Panama case, decisive of every conjecture which might have entered into the former decisions. In the Panama case the court held, if it held anything, when it set aside a statute enacted by the Congress, that this entire method of procedure was unconstitutional.

Mr. McKELLAR. I do not agree with the Senator at all; but I could never convince him that I was right and that he was wrong, so we just have to go to bat, and work it out in the vote.

Let me give some figures as to exports which show what has happened under our recent tariff acts and under the trade agreements.

In 1929, under the Fordney-McCumber Tariff Act, our exports had reached the enormous sum of $5,250,000,000, in round numbers. The Hawley-Smoot Act was then passed, and our exports dropped to less than $4,000,000,000. In 1931, under the Hawley-Smoot Act, they had dropped to less than $2,500,000,000. In 1932 they had dropped to $1,600,000,000, and then we passed the present Hull Trade Agreements Act, and our exports almost immediately began to climb.

In 1934 our exports were over $2,000,000,000. In 1935 they were about $2,300,000,000. In 1936 they were $2,500,000,000. In 1937 they were $3,300,000,000. In 1938 they were $3,000,000,000. In 1939 they were $3,177,000,000.

Mr. President, these figures tell the story.

Mr. President, the Smoot-Hawley Tariff Act, which at the time of its passage was alleged to be of the very essence of Republican tariff policy, is still on the statute books. It utterly failed to help our country. Our exports went down by more than two-thirds under that act. Then the Hull formula, as shown in the Trade Agreements Act, was put into effect, and the changes took place as I have stated. We have not gone back to the high exports of 1929, but we have doubled our exports under this wise enactment.

HOW THIS HAS BEEN DONE

As shown by a table furnished by Mr. Grady, of the State Department, we have made agreements with 26 countries, including dependencies, under that act; and there has been a large increase in exports, running from 4 percent in the case of Honduras to 200 percent in the case of the East Indies, and averaging in all the trade-agreement contract countries 42 percent. It is true that our imports from most of these countries have likewise increased though in the case of three of the countries they have actually decreased. It is a wonderful story of accomplishment, Mr. President. Think of it. Our exports increased by 42 percent and our imports from the same countries increased only 15 percent, or a difference of 27 percent in favor of America's export business.

If we could make similar agreements with all the rest of the world—and Mr. Hull proposes to do it if this joint resolution passes—in my judgment, Mr. President, our prosperity in this country would be fabulous.

Mr. President, I know it is the theory of many persons, largely among our Republican friends, that foreign trade is not absolutely necessary to our prosperity in this country. This theory is not tenable. In the United States we make more than we can consume, and as long as that condition prevails our foreign trade is necessarily of vital importance to us. A healthy foreign trade means prosperity to all our people. A small export trade means depression. It has been proved beyond the shadow of a doubt that this country cannot prosper behind the high tariff walls of a Smoot-Hawley Tariff Act. The whole fabric of a high tariff fell to earth when depression came. That act was wholly incapable of meeting the situation of a world depression or a domestic depression. It was necessary, therefore, when this administration took office in 1933, to recapture our foreign trade if full prosperity was to be restored.

How could this recapture best be made? Was it best for the Democrats to pass another logrolling tariff law, or was it best to take the law as it stood and adopt this trade-agreements plan of giving the President the right, under the express terms of the Constitution, to raise or lower tariff rates in order to regain our foreign trade?

Mr. President, in conclusion I wish to say that I have demonstrated, by the citations from the Constitution, and by the citations from the Supreme Court, that the trade-agreements law is in every sense constitutional and valid. I think I have shown by my review of the facts that these trade agreements have been of tremendous value in increasing American trade and commerce abroad. I believe they have added tremendously to our success commercially, economically, and in every other sense. I believe the highest tariff rates ever put into a law were those in the Smoot-Hawley law, and, by Secretary Hull's ability and sagacity in working out the trade agreements we have done away with the usual logrolling in the fixing of rates sought by the great selfish interests of this country. We have done it quietly, it has been done effectively, it has increased American trade with the 22 countries with which we have had agreements to the enormous extent of 42 percent.

Mr. President, with one further observation I shall conclude. Instead of the trade-agreements law being unconstitutional, the Pittman amendment is unconstitutional, for the reason that it would take away from the House of Representatives its power, with the Senate and the President, to regulate commerce with foreign nations. That is exactly what it would do. We would set up a new system. We would do away with the precedents of 150 years if we should declare agreements of this kind to come under the regulatory clause of the Constitution, and attempt to have them held to be treaties. If we undertook to do that, we would be undertaking to do an unconstitutional thing.

If I ever was convinced that an amendment was unconstitutional, I am thoroughly convinced that the amendment offered by the senior Senator from Nevada, proposing that we take trade agreements with foreign countries out of the hands of the Congress and put them into the hands of the Senate and of the President, is unconstitutional. With that observation, I submit the case.

Mr. GURNEY obtained the floor.

Mr. McCARRAN. Mr. President, will the Senator yield for a moment so that I may have a matter inserted in the RECORD?

Mr. GURNEY. I yield.

Mr. McCARRAN. I shall in a very brief sentence or two explain what I wish to have go into the RECORD.

The reciprocal-trade agreements have affected not only the countries with which the trade agreements have been made, but under the most-favored-nation clause have affected other countries of the world, because they have resulted in imports coming into the United States from other countries.

Mr. CLARK of Missouri. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK of Missouri. Inasmuch as there is a time limit in effect, if the Senator from South Dakota is going to yield for a speech, I must insist on the rule being enforced.

Mr. McCARRAN. I did not intend to start to make a speech. I am sorry the Senator is so aroused——

Mr. CLARK of Missouri. There is a time limit, and the Senator from Nevada has already occupied his own time, and there are some other Senators who would like to insert some things in the RECORD.

The PRESIDING OFFICER. The Senator from South Dakota has the floor. He has yielded to the Senator from Nevada for the purpose of having something inserted in the RECORD.

Mr. McCARRAN. This is just a sentence in explanation and nothing more. I will not take the time of the Senate.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. GURNEY. Only for the purpose of putting something in the RECORD.

Mr. McCARRAN. I ask to have inserted in the RECORD a certain series of correspondence between Secretary Hull and those under Secretary Hull with the president of the Manganese Association of America.

The PRESIDING OFFICER. Without objection, the matters will be inserted in the RECORD.

The matters referred to are as follows:

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
Washington, D. C., June 9, 1936.

Hon. CORDELL HULL,
Secretary of State,
Washington, D. C.

MY DEAR MR. SECRETARY: The trade agreement with Russia expires July 13.

In the best interest of the United States and with full respect for the efforts of the State Department to expand foreign markets, we respectfully ask that no new agreement be made whereby manganese ores and alloys may be imported from Russia under any reduction in duties.

In order that the subject may be properly considered, we further ask that no agreement of any kind be negotiated with Russia without due notice and hearings as required by law.

It is reliably reported that Brazil is contemplating trade treaties with Germany and Italy, whereby those countries will be given special trade benefits not to be enjoyed by the United States. Such treaties would, in effect, abrogate the trade agreement between the United States and Brazil.

The official Government document Manganese and Manganiferous Ores for the year 1935, published by the United States Bureau of Mines under the direction of Hon. Harold L. Ickes, Secretary, Department of the Interior, page 483, states as follows:

"On February 2, 1935, the United States and Brazil signed a reciprocal-trade agreement which, among other concessions, provided for a reduction of 50 percent in the present American duty on manganese ore imported from Brazil. If confined to Brazil, the lowered duty will inevitably stimulate production there. If, however, the reduction in duty is granted other nations supplying the American market, Brazil will have no competitive advantage due to the agreement."

If the reduction in the manganese duty is extended to Russia and other countries, there would be no particular reason why Brazil should not abrogate the trade agreement with the United States.

The Brazilian agreement, cutting the duty on manganese ore and extending the same cut to Russia and other nations, means a loss to the United States Treasury of approximately $2,500,000 collectible as duty on manganese previously imported and stored in the bonded warehouses of the steel companies in the United States at the time the agreement became effective. It means a continued, additional loss to the United States Treasury of approximately $2,500,000 per year in tariff on ores regularly being imported. For the reason that little or no benefits, sufficient to offset the losses, are derived through this agreement, either by the United States or Brazil, we fail to see any reason why the United States should not likewise desire to abrogate the trade agreement with Brazil.

There can be no adequate national security as long as the United States remains dependent upon foreign manganese with the source of supply 4,000 miles away.

Recovery of high-grade manganese from the enormous deposits of lower grade ores in the United States is inevitable. Any policy which retards this development is against the national interest.

Since the United States signed the trade agreement with Brazil the Bureau of Mines has announced recovery of pure manganese from ores running as low as 10 to 15 percent. This gives added support to new processes previously developed whereby the highest grade ores known in the world's markets may be recovered from the deposits in the United States. These deposits, however, cannot be developed and plants installed in the short period of time ordinarily allowed in an emergency.

A reduction in the duty on manganese was not intended by the President and Congress in the passage of the Reciprocal Trade Agreement Act.

The President in his message to Congress on the 2d day of March 1934, requesting this legislation, said:

"You and I know, too, that it is important that the country possess within its borders a necessary diversity and balance to maintain a rounded national life, that it must sustain activities vital to national defense, and that such interests cannot be sacrificed for passing advantage."

Proper consideration for manganese for national-defense purposes is definitely expressed in the manganese petition to the President, signed by 41 Senators and 145 Congressmen, and presented to the President June 29, 1934.

In hearings before Congress, Hon. Francis B. Sayre, Assistant Secretary of State, testified that the policy under the trade agreements would be as follows:

"The whole purpose of the program of trade bargaining is this: To restrict the commodities covered in the agreement with any specific country to commodities of which that country furnishes the chief source of supply of importation into the United States."

The opposite to this was done. Manganese was traded away to Brazil, a minor producer of the ore. Russia, the major producer, should not be allowed entrance through the "back door" of the Brazilian agreement.

The suggestion has been made that we conserve our manganese resources. Facts would indicate this is perfect nonsense.

The total known reserves of iron ore in the United States are estimated at 1,500,000,000 tons, or enough to make 750,000,000 tons of steel. The manufacture into steel of the known reserves of iron ore in the United States will consume at the most only 12,000,000 tons of high-grade manganese ore. Some manganese deposits in the United States require the mining and treatment of 2 tons of crude manganese ore for each ton of high-grade manganese ore shipped; others require 3 to 1, and so on. Taking an outside figure, and say it would require an average of 5 tons of crude manganese ore mined to produce 1 ton of high-grade manganese ore running 50 percent metallic manganese, it would require at the utmost only 60,000,000 tons of crude low-grade manganese ore to produce the high-grade ore necessary to manufacture into steel all the known reserves of iron ore in the United States. It is well recognized that there are reserves of low-grade manganese ores in the United States approximating 200,000,000 tons, and further work will undoubtedly disclose additional reserves, although only 60,000,000 tons may be required.

Manganese and Manganiferous Ores, 1929, United States Bureau of Mines, page 295, states as follows:

In view of the fact that there is possibly 200,000,000 tons of low-grade manganiferous material in the United States to which certain beneficiation processes may be applied in the future, it may be of interest to outline the occurrence of manganese ores and the methods that have been developed for treating these ores."

These tremendous manganese reserves, however, unless they are developed, will be of no more use in an emergency than they were during the last war. A healthy nucleus of a manganese industry in the United States is an urgent national need. The sacrifice of the manganese developments in the United States through reciprocal-trade agreements constitutes an irreparable national loss. Mines previously developed are now fast being abandoned and allowed to fill with water, and collapse. The lack of these developments in time of need may contribute to a national calamity.

During the year 1918 the price of manganese ore, on a basis of 50 percent metallic manganese, f. o. b. Chicago, was $68.50 per ton, and a sufficient tonnage necessary for the proper manufacture of munitions was not available from domestic or foreign sources even at this price.

When it is realized that we normally use 1,000,000 tons of 50-percent grade manganese ore, or its equivalent in lower grade, per year, it may well be understood that the dollar cost of unpreparedness would far offset any small passing advantage which might be obtained through the trading away of manganese under the reciprocal-trade agreements.

With proper time for development, ores running 50 percent metallic manganese may be obtained from domestic sources at costs ranging from $30 to $35 per ton. With consumption at the rate of 1,000,000 tons per year and the price $68.50 per ton experienced during the last war, the added penalty paid by the Government in an emergency, in 1 year alone, would be in excess of $30,000,000.

The following figures from published reports of the United States Bureau of Mines show the increase in domestic production of manganese ores following the tariff on high-grade ores granted in 1922:

Manganese ores shipped from mines in the United States

Grade of ore	Year	Long tons	Year	Long tons
5 to 10 percent manganese	1921	62,670	1929	1,110,067
10 to 35 percent manganese	1921	8,439	1926	384,312
35 percent manganese and above	1921	13,531	1925	98,324

Following the tariff in 1922, years were spent in development of mines and in working out processes to successfully recover the high-grade ores from the lower-grade deposits. This was accomplished and in 1929 the domestic industry stood ready to produce gradually increasing tonnages of the higher-grade ores in accordance with market demands.

On account of the depression, decline in both steel production and consumption of manganese, the years 1929 to 1935, inclusive, reflect a comparative drop in demand and prices of manganese ores. This price drop was augmented largely through the dumping of manganese ores on the world's markets by the Soviets at the beginning of their 5-year plan in 1929, following which the Soviet ores were sold on a flooded market at almost any prices they would bring. During this period American ore buyers accumulated large stocks of ores in reserve. Five hundred and two thousand tons of manganese ore were imported into the United States during the year 1931 alone.

The Russian dumping policy is clearly described in two memoranda, both dated August 5, 1929, prepared by E. C. Ropes, chief Russian section, Division of Regional Information, United States Bureau of Foreign and Domestic Commerce, and supported by certain translations from the Berliner Tageblatt, July 12, 1929, wherein is stated:

"But the Russian effort is directed quite plainly further to shut out so far as possible, by quoting lower prices, other manganese producers and to assure a monopoly for itself.

"If the Russians once maintain a monopoly, which is quite easily possible with their opportunities for dumping, under the system where it is immaterial whether an export trust itself makes or loses, then they will very probably refuse to sell Russian ore to those plants which have adapted their processes at prices acceptable to the consumers, but will demand those rates that will suit them as monopolists."

The special congressional committee created by the House of Representatives to investigate the activities and propaganda of the Communists in the United States, after holding hearings throughout the country and interviewing numerous witnesses, in January 1931 definitely recommended to Congress as follows:

"That immediate consideration be given by the Congress to the placing of an embargo on the importation of manganese from Soviet Russia."

The Soviets subsequently ceased the dumping of manganese ore in the American market.

The year 1936 brings increased steel production, increased manganese consumption and continued depletion of the ore stocks on hand in the United States. Therefore a gradual rise in the price and demand of manganese ore is recorded. This price and market increase may be expected to continue as the production of steel expands and the stocks of ore on hand are consumed. As conditions return to normal, likewise consumption and prices of manganese ore may be expected to return to normal. However, with the reduction in the duty granted to Brazil and extended to other countries through the trade agreements, it is impossible for domestic producers to compete and, unless there is some hope for relief from unfair foreign competition, most domestic mines will be abandoned.

If the normal domestic market is made available to domestic producers, the total sales value, based on average 1924 to 1928 prices of high-grade manganese ores alone, 700,000 tons of 50-percent manganese, delivered at the furnaces of consuming points, would be in excess of $21,000,000. More than half of this amount, or $12,000,000, would represent wages. Allowing $1,000 per man per year, it would mean the employment of approximately 12,000 men per year.

If a policy to encourage further development of domestic manganese is adopted by the Government, new development work, plant construction, and production of ore from existing plants in the manganese districts would directly and indirectly furnish almost immediate employment of from 5,000 to 7,000 men.

According to Vandegrift's survey in Utah, a man employed in the mining and metallurgical industry will support a total population of approximately 15 people, including workmen's families and the service population. On this basis the employment of 12,000 men in producing manganese ores in mining sections would support an additional population of 180,000 people. We do not contend that this could be accomplished in a short period of time, but these facts cannot be ignored in your deliberations.

Sir Robert Hadfield, eminent British metallurgist, in a paper on manganese read before the British Iron & Steel Institute, 1927, stated as follows:

"The old Chinese proverb says, 'They who own the iron of the world rule the world.' It would almost seem safe to add that they who own the manganese of the world have largely in their hands the control of steel of satisfactory quality such as is now necessary to meet modern requirements."

The Assistant Secretary of War, Hon. Hanford MacNider, in a letter to J. Carson Adkerson, October 3, 1927, stated as follows:

"The safety of the country requires that we have a readily available source of manganese within the United States."

The Assistant Secretary of War, Hon. Frederick H. Payne, in an address before the American Manganese Producers Association, November 10, 1930, stated as follows:

"Of the raw materials necessary to us in war, none is more important than manganese. The problem of providing an adequate supply is aggravated by the fact that we largely rely upon foreign sources to meet our demands in this material."

The Assistant Secretary of War, Hon. Frederick H. Payne, in a letter to the American Iron & Steel Institute, February 12, 1932, stated as follows:

"In view of the dependence of the military requirements upon steel products and of the supreme importance of manganese in the making of sound steel, it is deemed essential to have available, at the beginning of a major war, a domestic or nearby operating source of manganese ore.

"To create such an operating source during peacetime the producers must have a market for their output."

Maj. Alfred H. Hobley, speaking in behalf of the War Department (Convention Proceedings, American Manganese Producers Association, p. 42, November 10, 1930), stated as follows:

"After considering all possible solutions to the manganese problem, it appears that one of the safest methods from the standpoint of production in wartime is the development of the domestic industry to the point where it would be in existence and offer a satisfactory nucleus for expansion to the necessary degree to meet the increased needs that might arise as a result of military activity."

On the grounds of national security, and in order that a healthy nucleus of a manganese industry may be maintained in the United States, we respectfully ask that the reduction in the manganese duty not be extended to Russia and that tariff protection be provided sufficient to equalize the cost of production between domestic and foreign manganese ores and alloys.

Respectfully yours,

J. CARSON ADKERSON, *President.*

DEPARTMENT OF STATE,
Washington, July 9, 1936.

Mr. J. CARSON ADKERSON,
President, American Manganese Producers' Association,
National Press Building, Washington, D. C.

MY DEAR MR. ADKERSON: I have received and read with care your letter of June 9, 1936, in which you point out that the present commercial agreement between the United States and the Soviet Union expires July 13, 1936, and in which you request that no new agreement be made whereby manganese ores and alloys may be imported from the Soviet Union under any reduction in duties and that no agreement of any kind be negotiated with the Soviet Union "without due notice and hearings as required by law." It is noted, furthermore, that you suggest the desirability of abrogating the trade agreement with Brazil, presumably with a view to restoring in what you apparently believe to be the interest of national security and increased employment, the rate of duty on manganese ore provided for in the Tariff Act of 1930.

The reduced duty on manganese ore proclaimed pursuant to the trade agreement with Brazil is applied to imports from the Soviet Union in accordance with the Trade Agreements Act of June 12, 1934, which provides, in effect, that duties proclaimed pursuant to foreign-trade agreements entered into under the authority of that act shall be applied to the articles of all foreign countries which do not discriminate against American commerce or pursue policies or take actions which tend to defeat the purposes of the act. In undertaking as the result of the agreement entered into with this Government on July 13, 1935, to increase substantially its purchases of American products, the Soviet Government indicated its intention of pursuing policies and taking actions in harmony with the purposes of the Trade Agreements Act. In the 10-month period ending April 30 of this year the Soviet purchases of American products amounted to $31,076,007, as compared to $16,840,788 in the 12-month period ending June 30, 1935. It is believed that as long as American commerce is accorded favorable treatment by the Soviet Union it would not be justifiable or in accordance with the provisions of the Trade Agreements Act to withhold from that country the benefits of tariff concessions resulting from reciprocal-trade agreements.

With reference to your request that no agreement of any kind be negotiated with the Soviet Union "without due notice and hearings as required by law," I may point out that the agreement entered into with the Soviet Union on July 13, 1935, although related to the trade-agreements program, was not concluded under the authority of the Trade Agreements Act. The provision of the Trade Agreements Act for public notice of intention to negotiate a trade agreement and an opportunity for interested persons to present their views relative thereto applies only to agreements concluded under the authority of that act. I may assure you, however, that the Department is at all times glad to receive your views in regard to this and other matters.

As to your suggestion that the trade agreement with Brazil be abrogated it may be pointed out that such abrogation would require the mutual consent of the United States and Brazil. Moreover, it is not

believed that such action would be to the best interests of this country.

Article XIV of the trade agreement with Brazil provides that the agreement shall continue in force for 2 years (that is, until January 1, 1938), and shall be subject to termination at the expiration of that term or thereafter only upon 6 months' notice, unless terminated in accordance with the provisions of article II, which pertains to the imposition of quantitative restrictions on imports. It may be pointed out in this connection that there is no evidence to indicate that Brazil has not fulfilled the obligations which it has undertaken as a result of its trade agreement with the United States.

The reciprocal concessions provided for in the trade agreement between the United States and Brazil are of substantial benefit to both countries, as is indicated in the enclosed copy of an analysis of the agreement issued by the Department of Commerce on February 7, 1935. In the first 4 months in which the agreement has been in effect, namely, from January 1 to April 30, 1936, Brazil's purchases from the United States increased 5 percent over the amount purchased in the corresponding period of last year. That this increase in our exports to Brazil is due in a large measure to our trade agreement with that country is indicated by the fact that the increase, in case of commodities with respect to which reductions in the Brazilian rates of duty were obtained, was 20 percent, whereas in the case of commodities with respect to which no concessions were obtained it was only 2 percent.

It cannot be doubted that Brazil regards as important the duty reduction obtained with respect to manganese ore. This is evidenced by the substantial concessions which Brazil granted in return for that reduction and other concessions made by the United States to Brazil. Inasmuch as the trade-agreements program is based upon the principle of most-favored-nation treatment, it was not intended that Brazil should, as a result of the trade agreement, be given a preferential advantage in the American market with respect to manganese ore or any other commodity. This policy was, of course, well known to the Brazilian Government at the time the trade agreement was signed.

You may be assured that the questions of national security and increased employment involved in the reduction of the duty on manganese were, among others, given very careful study, not only by this Department but also by other departments and agencies of the government concerned. With reference to the question of national security, it is interesting to note the following views of the Planning Committee for Mineral Policies contained in the report made on December 1, 1934, by the National Resources Board:

"To encourage development of certain minerals in which we are deficient, such as manganese, mercury, and tungsten, tariffs have been imposed. It has usually been argued on behalf of tariffs—often without careful scrutiny of the reserve situation—that they would make possible the development of new supplies. In practice, however, the encouragement of tariffs has not greatly aided exploration, discovery, and research; on the contrary, the stimulus of a protected market of uncertain duration has merely accelerated the depletion of the few high-grade deposits we have at a time when consideration for national defense requires that such limited supplies be conserved for emergency use.

"* * * We suggest study of the question whether tariffs on some of these minerals may be advantageously reduced or rescinded, in return for trading advantages from the countries controlling these supplies."

As to the importance of the manganese industry as a factor in providing increased employment for labor, I may refer you to the Department's press release of February 9, 1935, a copy of which is enclosed. As is pointed out therein, the total number of wage earners engaged in mining manganese ores in 1929 was, according to census data, only 354. Although labor has little reason to expect that a restoration of the excessively high duty on manganese will relieve to any appreciable extent the pressure of unemployment, it may, on the other hand, expect to obtain substantial benefits from the development of our export trade with the Soviet Union, which as a result of the agreement entered into with the United States on July 13, 1935, amounted to $31,076,007 for the 10-month period from July 1, 1935, to April 30, 1936, and from the development of our export trade with Brazil, which in 1929 was valued at $108,787,000.

In view of the facts presented above, it does not appear that action to withhold from the Soviet Union the duty reduction on manganese or to abrogate the Brazilian agreement in order to restore the former rate of duty on that product would be in the interests of national security or the employment of labor.

Sincerely yours,

FRANCIS B. SAYRE,
Assistant Secretary
(For the Secretary of State).

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
Washington, D. C., July 28, 1936.

Hon. FRANCIS B. SAYRE,
Assistant Secretary of State, Department of State,
Washington, D. C.

MY DEAR MR. SAYRE: Your letter of July 9 received in response to our letter of June 9 to the Secretary of State regarding the Russian trade agreement.

You state that the Russian trade agreement "was not concluded under the authority of the Trade Agreements Act." May we ask under what authority it was concluded?

The Constitution provides that agreement or treaties with foreign countries are subject to approval by two-thirds majority of the Senate. The Trade Agreements Act was not approved by two-thirds majority of the Senate. The individual trade agreements have not been approved by two-thirds of the Senate. Now, in addition, the Russian trade agreement, concluded separately without notice and hearing, appears in violation of the Constitution as an illegal and unauthorized document.

You state that "Inasmuch as the trade-agreements program is based upon the principle of most-favored-nation treatment, it was not intended that Brazil should as a result of the trade agreement be given a preferential advantage in the American market with respect to manganese ore or any other commodity." In view of this we cannot understand in what manner Brazil enjoys any special advantage not granted other nations under the reciprocal-trade agreement and why, therefore, the agreement should not be abrogated.

We cannot accept your statement to the effect that "there is no evidence to indicate that Brazil has not fulfilled the obligations which it has undertaken as a result of its trade agreement with the United States." We suggest your analysis of the Brazilian-German trade agreement recently negotiated. It should be the duty of our Government to recognize discriminations by foreign countries made against American interests in the face of trade agreements. In the absence of action by the Department, it becomes the duty of American citizens to assemble and place this evidence before the proper authorities and move for complete abrogation of such treaties.

It is most unfortunate that manganese producers have never been given proper notice or hearing under the Reciprocal Trade Agreements Act, in accordance with your testimony before Congress and in accordance with the law embodied in the act.

Had proper hearings been held, you would not have included in your letter the erroneous representation that "the total number of wage earners engaged in mining manganese ores in 1929 was, according to census data, only 354."

Proper hearings would have revealed that most of the manganese mines are located in rural and mountainous areas, and the wage earners engaged are mostly native laborers drawn from the surrounding communities. Most of such employees own or rent their small individual farms and engage in light farming. Under a census enumeration these men would be classified as farmers. The same is true of contractors, haulers, millmen, woodsmen, and most other employees in manganese operations.

In the Batesville district of Arkansas alone, for instance, more than 300 families normally obtain their subsistence from manganese operations. A small farm acreage is leased to the local farmer, and the individual farmer, with his family, digs the manganese ore from this acreage. Census classifies him as a farmer.

In Butte, Mont., where the largest producing manganese operations in the United States are located, the mines produce lead, zinc, and other minerals, as well as manganese. When the producers are free from unfair foreign competition and have orders for manganese they mine manganese, otherwise they mine other minerals. They, too, in the 1929 census enumeration would be classified as miners of ores other than manganese.

For your information we enclose a photostat copy of a page from the CONGRESSIONAL RECORD of March 11, 1935, showing statements on the floor of the House by Congressmen from a few manganese States, indicating the employment in 1929 of more than 2,400 men in the production of manganese and manganiferous ores. We call your particular attention to the statement of one of the Congressmen, with special reference to previous statements of the Secretary of State relative to the number of men employed in manganese, as follows: "I may also suggest to the Secretary of State that hereafter he get his information from more reliable sources."

Reference to the United States Bureau of Mines bulletin would have shown the State Department that in 1929 there was a total number of 63 manganese operations actually underway in 17 States. Any one of a number of manganese districts in the United States employed more men than the total credited by you for the entire country.

If the normal domestic market is made available to domestic producers, the total sale value, based on average 1924–28 prices of high-grade manganese ores alone (700,000 tons of 50-percent Mn), delivered at the furnaces or consuming points, would be in excess of $21,000,000. More than half of this amount, or $12,000,000, would represent wages. Allowing $1,000 per man per year, it would mean the employment of approximately 12,000 men per year.

According to Vandegrift's survey in Utah, a man employed in the mining and metallurgical industry will support a total population of approximately 15 people (including workmen's families and the service population). On this basis, the employment of 12,000 men in producing manganese ores in mining sections would support an additional population of 180,000 people. We do not contend that this could be brought about suddenly, but it does not appear that these facts have been considered in your deliberations.

If proper manganese hearings had been held, you would have learned that in 1928 no Government agency credited the State of South Dakota with a single ton of manganese ore, but that in 1930, after exhaustive surveys and reports, the United States Geological Survey formally reported a positive reserve in this one State alone of 102,000,000 tons of metallic manganese, equivalent to more than 500,000,000 tons of manganese ore running from 15 to 18 percent metallic manganese. This is only 1 State, and there are more than

30 States containing manganese deposits of varying extent. Furthermore, since the Brazilian treaty was signed, the United States Bureau of Mines has announced a new process whereby pure manganese may be recovered from ores running from 10 to 15 percent metallic manganese.

It is important to note that during the year 1931, without recognition of Russia and without reciprocal-trade agreements, the United States exports to Russia amounted to $103,717,000. The average of the years 1926–30 was $77,666,000. In 1936, with recognition and with reciprocal-trade agreements, the United States is surrendering revenue, sacrificing national defense, and giving valuable concessions to obtain from the soviets an agreement that they will purchase from us a total of $30,000,000.

In view of these facts, and since no proper hearings on manganese have been held, manganese producers, property owners, and employees in the industry respectfully but determinedly insist on the termination of the Brazilian, Russian, and Canadian trade agreements.

Respectfully yours,

J. CARSON ADKERSON, *President.*

DEPARTMENT OF STATE,
Washington, August 11, 1936.

Mr. J. CARSON ADKERSON,
President, American Manganese Producers Association,
National Press Building, Washington, D. C.

MY DEAR MR. ADKERSON: Your letter of July 28, 1936, addressed to Mr. Sayre, who is on vacation, concerning further the reduction of the duty on manganese with reference to our trade agreements with Brazil and Canada and our commercial agreement with the Soviet Union, has been received. The expression of your views is very much appreciated, and I assure you that your letter has been read with interest.

In response to your inquiry regarding the authority under which the Soviet agreement of July 13, 1935, was concluded, it may be pointed out that the agreement was concluded by the President in pursuance of his general powers under the Constitution to conduct the foreign relations of the United States. The Soviet agreement is only one of a number of executive agreements which have been negotiated by various Presidents in pursuance of such powers to prevent discrimination against American commerce or to bring about a change in acts or policies which are prejudicial to it.

Sincerely yours,

HARRY C. HAWKINS,
Chief, Division of Trade Agreements.

Mr. SCHWARTZ. Mr. President, will the Senator yield so that I may insert a letter in the RECORD?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wyoming?

Mr. GURNEY. I yield for that purpose only.

Mr. SCHWARTZ. I ask unanimous consent to have inserted at this point in the RECORD a letter written by me, addressed to the Honorable R. R. Rose, Democratic State chairman of the State of Wyoming.

The PRESIDING OFFICER. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 29, 1940.

Hon. R. R. ROSE,
Democratic State Chairman,
Casper, Wyo.

DEAR BOB: Answering your telegram of today, I write for the purpose of explaining the votes I shall cast on the matter now before the Senate.

I do not discuss the purely legal or constitutional questions involved.

The distinguished chairman of the Finance Committee quoted testimony before his committee to the effect that representatives of western livestock, farm, and ranchmen had admitted present trade pacts had not hurt us, but that these men of the West are fearful of what may happen under trade pacts to be made in the future.

There are two reasons accounting for that fear: The 1936 agreement with Canada was followed by another in 1939 increasing the quotas and further lowering the rates on livestock imports; and the nature of the campaign of fear for the future now being made by Republican politicians in and out of the livestock and farm organizations in the Western States.

As to the two Canadian agreements:

Under the 1936 agreement with Canada, the United States tariff on live cattle, weighing 700 pounds or more each, was reduced from 3 to 2 cents per pound, subject to a quota of 156,000 head. This quota was about 1 percent of the average annual slaughter of cattle in the United States. There was complaint under this quota that sudden shifts in market price brought in large percentage of the cattle at one time, thus adversely affecting the prices of American cattle at or en route to American stockyards.

The 1939 agreement provides for a tariff rate of 1½ cents per pound on an increased quota of 225,000 head (the 1936 quota was 156,000 head). The number entering during any one quarter of the year is now limited to 60,000 head from all foreign sources. The new quota represents about 1⅛ percent of the average annual slaughter of cattle and calves in the United States.

In 1936 the tariff on calves weighing less than 175 pounds each was reduced from 2½ cents per pound under the Smoot-Hawley Act to 1½ cents on a quota of 52,000 head. Under the 1939 agreement the same rate of tariff is continued, but the quota is raised to 100,000 head, and the weight limit is raised from 175 pounds to 200 pounds per head.

Beef cattle and calves in excess of the quotas provided for in the agreement must pay the full 1930 rate of tariff.

On page 161 of Foreign Crops and Markets, issued by the United States Department of Agriculture, February 10, 1940, the United States average farm price of beef cattle, 1935–39 is given. It is apparent that increased imports of cattle in 1939 did not depress prices.

In 1939 cattle prices were the highest since 1930, except in 1937 (when imports also were large).

Farm cash income by American producers from the marketing of cattle and calves from 1935 (the last year before the first agreement with Canada went into effect) through 1938, is as follows:

Farm cash income from cattle

Year:	
1935	$1,061,830,000
1936	1,097,767,000
1937	1,214,699,000
1938	1,114,340,000

Statistics thus far available indicate that the farm cash income from cattle in 1939 will be larger than any other year since 1929.

I quote a sample of the fear campaign now being conducted in Wyoming. Recently there has been published in the newspapers of Wyoming lengthy quotations from the remarks made by Congressman HORTON in his speech in the House as it appears in the CONGRESSIONAL RECORD of February 21. I quote from page 1808. Says Congressman HORTON:

"I will confine my remarks largely to the livestock interests, and I will not burden you with a lot of statistics, for already your head, like mine, is chuck full of figures and counterfigures. All one has to do is first determine where you want to go and figures can be dug up and juggled in such a way to land you there safely."

Mr. HORTON, having determined where he wishes to go, then proceeds to juggle his figures. He is speaking of the effect on cattle of the present Canadian trade pact. I quote further:

"Try as you will, juggle your figures as you may, use all the cunning of your New Deal methods, you will never convince a single hard-headed cattleman that lowering of the duty on cattle, which made possible ever-increasing imports—which in 1939 reached 753,570 live head—has done him anything but dirt."

Did lowering the rates under the quotas provided in the Canadian pacts make possible the 753,570 imports in 1939?

Let us look at the Department of Agriculture statistical publication Foreign Crops and Markets of date February 10, 1940. At page 160 there is given the United States imports of dutiable cattle from Canada and Mexico, 1935–39. I quote only 1939. It will be borne in mind that cattle of 700 pounds and over come in under the trade agreements, while cattle under 700 pounds come in under the rate fixed in the Smoot-Hawley Act of 1930. Under the trade agreements we imported from Canada 181,323 head, of which 8,570 head were dairy cattle and 172,753 head were beef cattle and others. From Mexico we imported under the trade pacts 55,232 head. Thus there was imported under the agreements a total of about 240,985 head of beef cattle in 1939.

Under the Smoot-Hawley rates we imported in 1939 from Canada 11,229 head and from Mexico 390,074 head.

It will be seen that over half of the total imports referred to by Congressman HORTON as chargeable to the trade agreements came into the United States from Mexico under the Smoot-Hawley tariff rates. And let it be said this 390,074 head of cattle weighing less than 700 pounds was mostly thin stock headed for ranches and feed lots of American cattle producers.

Of calves, 200 pounds or less weight, under the trade pact we imported in 1939 from Canada 69,464 head, and from Mexico 30,536 head—the full quota of 100,000 under the 1939 pact. In addition we imported in 1939 some 15,000 head of calves under the Smoot-Hawley Act, 1930, rate of 2½ cents per pound.

Some of our wool growers are also fearful of future trade-agreement pacts. Their representatives admit generally that trade pacts have not directly affected the prices of raw wool, but they point out that when notices of negotiations for pacts were announced these notices did, temporarily, unsettle the market to their damage.

While our critics are damning the New Deal as affecting livestock and wool—major industries in Wyoming—let us not forget that while the Smoot-Hawley Act rates were in force in 1932 beef steers fell to 4½ to 5 cents on the ranch, and today ranch prices have practically doubled. Also, in 1932 wool sold in Wyoming from 6 to 8 cents. Since then prices of wool have tripled. Only last week a 200,000 pound clip in the neighboring State of Montana sold for 30 cents. We hope for and need still further advances in the price of both cattle and wool. I do not claim that the low prices in 1932 and 1933 were due largely to the Smoot-Hawley Act rates of duty on cattle and wool. Neither do I contend that New Deal legislation is to be credited 100 percent for our better times and better prices; but I am weary of hearing that the New Deal has not helped the people of my State.

In conclusion, let me say that I do not believe the present treaty pacts have been harmful to Wyoming.

From many letters and telegrams from my constituents—many of whom I personally know and highly regard—it is evident they fear further additional modification of the 1939 Canadian trade pact or from new pacts with a further lowering of rates and increase of quotas.

In these circumstances, while I do not subscribe to all the fears expressed by my friends, nor to those conjured by political opponents of my party, I shall vote for the amendment offered by Senator O'MAHONEY. I cannot vote for the Pittman amendment.

It is my conviction the general reciprocal trade program has given great aid toward solidifying friendship among the nations of the western hemisphere; that it makes for continued peace for the United States; that its continuance will help to keep us out of war, and will strengthen the arms of the President and the Secretary of State to hasten world peace on a basis of reason and justice. Because I hate war, because I could never bring myself to do any act which, in my conscience and conviction, might lessen our determination to keep American boys from slaughter on the fields of battle, or our women and children and our civilian population from possible mass destruction by enemy bombers, I make my choice.

Very sincerely,

HARRY H. SCHWARTZ.

Mr. GURNEY. Mr. President, the spring of 1940 has started off in my section of the country very auspiciously. I notice on the weather map today that again we are favored with a heavy rain, and I am sure that, due to the fact that we have had rain for the last month, and are continuing to have rain, our people at home are feeling rather optimistic. They feel that this will be a good year. They feel that they will be able to raise something this year. Therefore they want to be sure that they are going to get their share of the United States market. So, because of these prospects, I am going definitely to oppose the extension of the authority to negotiate trade treaties. I may say, further, that I am going to vote for the amendment which has been offered seeking to bring all trade treaties back to the Senate for ratification by this body.

Mr. President, in discussing the reciprocal trade treaties I should like to call to the attention of this body that, in addition to the question of the constitutionality of reciprocal trade treaties, they have definitely adversely affected our national economy. I submit that, as an elective representative of the people of South Dakota, I feel I have no right to grant a blank check to the State Department, to barter the rights of these people away as the State Department may see fit.

I further submit that it is my opinion that Congress has no right to grant to the State Department the authority to raise and lower tariffs, which, in reality, is the authority to impose taxes. It would be equally as logical to grant to the Treasury authority to change, without consulting Congress, the tax laws of the land as it is to grant authority to the State Department to make trade treaties.

However, in my opinion, probably the most dangerous effect of the reciprocal-trade policy has been the disastrous results which have been imposed upon our American raw-material producers.

There seems to have been developed in this country a philosophy that foreign trade is a cure-all for both domestic and world problems. It is even contended by the Secretary of State that the extension of foreign trade is in the interest of world peace, and is the means of restoring world prosperity among the various nations. If this is the case, it has certainly failed to date. If we stop but a minute to analyze this philosophy, we find how utterly false it is.

I grant that the securing of new outlets and new industrial uses for our products is desirable, but have we not been overemphasizing the value of foreign trade and belittling our own local market? What is the situation today?

Foreign farm products have been coming in to establish credits with which to buy implements of death. American manufacturers of war materials have had the benefit of the increase in exports, and American farmers have been deprived of that part of the domestic market for all the foodstuffs we have imported.

Here is how I tie up farm imports with war materials exported. I do it by just looking at the other side of the picture. What did we export and who received the benefit of increases in trade?

Exports of scrap iron jumped from $112,000,000 in 1936 to $300,000,000 in 1937, and constituted 9.1 percent of all exports. Shipments of machinery essential in the manufacture of armaments increased from $335,000,000 in 1936 to $479,000,000 in 1937.

Whatever purpose may have induced the present administration to allow huge imports of farm products during recent years, the actual effect of these policies has been to provide the means whereby foreign nations could pay for war materials purchased in America. These war materials have been paid for largely from the sale of farm products which directly compete with those produced by the American farmer.

Much as I dislike figures in any talk, I must give a few just to prove my point. The record speaks for itself. Here they are, covering imports directly competitive with Northwest farmers: In 1937, 86,000,000 bushels of corn were imported; 9 years ago, only one-third of a million. In 1937, 494,000 head of cattle were imported, while in 1932 only 97,000 were imported. How about hogs? In 1937 foreigners shipped us sixteen and one-half million pounds, while during 1932 only 34,000 pounds were allowed to come in. In 1932, 1,000,000 pounds of foreign butter were consumed by the citizens of the United States; in 1937 over 11,000,000 pounds. In our most prosperous years foreign trade constituted but 6 percent of our total commerce, and this 6 percent was only obtained at the expense of some of our American industries and raw-material producers. I wish to qualify this and further remarks by the statement that I except those raw materials in which we are deficient in this country.

Obviously, the expansion of American foreign trade can only be accomplished in one of three ways: First, by the acceptance of gold in payment; second, by the loan to foreign countries; third, by the acceptance of goods in kind.

As we well know, the payment of gold is practically an impossibility under the present world situation, as we already have accumulated a stock of gold which is embarrassing us, to say the least.

I believe any Member of this body would certainly hesitate to recommend further credits to foreign countries for the stimulation of our foreign trade, as many of our unpaid foreign loans are the result of such a policy in years gone by.

This brings us to the one and only means of stimulating foreign trade; namely, the acceptance of goods in kind. I have previously stated that I am excepting those goods in which we have a deficiency in this country and which are, in the majority of instances, strategic materials. The whole theory of reciprocal-trade treaties if based upon granting concessions in the importation of certain goods from certain countries, in return for like concessions in these countries, on goods of American manufacture or for our raw materials. It has turned out, as the reciprocal-trade treaties have operated, that this is primarily a concession to one line of industry at the expense of another. But the worst part of it is, that the producers of raw materials have been the ones who have been called upon to give the subsidy to the manufacturing industries of this country, notwithstanding the fact that it is the producers of raw materials who have been worst hit during the years of depression, and for whom we have been compelled to vote the greatest amount of assistance.

Now let us look at the proposition of reciprocal-trade treaties which directly affect the farmers of the Middle West. One of the big deals of the New Deal is the reciprocal trade treaty policy. These treaties, combined with the plan of Government at present to reduce production of agricultural crops, has left the farmer in an impossible situation. He has had to compete with other countries which can produce crops such as he produces at a less cost than he can under the present administration's farm plan. The farmers of our country were not told that there would be imports of agricultural crops equaling the normal production of the acres ordered to lay idle in order to reduce surplus, and that these imports would go into competition with the lesser crop the farmer would be permitted to grow. The result, in my opinion, has been that it is impossible for the farmer of the United States to come anywhere near getting cost of production.

Another result of the reciprocal-trade policy has been a tremendous increase in imports of agricultural commodities into this country, adding to the wealth of the farmers' competitors in foreign lands at the expense of the farmers and all the rest of the citizens in the agricultural States of these United States.

To satisfy myself, I have just checked up on the latest report issued by the United States Department of Commerce, released March 1, 1940. That report shows that imports of competitive and substitute farm products during the last 6 months of 1938 amounted to approximately $479,000,000, and they have kept on increasing, for during the last 6 months of 1939 they amounted to approximately $528,000,000. Comparing farm exports for the same period in 1938, I find that these exports amounted to $414,000,000, but for the same period in 1939 there is a decrease in exports of $28,000,000 below the 1938 period.

Bringing this information a little more up to date, I find that, during the first month of this year, agricultural imports amounted to seventy-five and one-half million dollars, against forty-two and one-half million dollars for January a year ago.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. GURNEY. I yield.

Mr. AUSTIN. I should like to ask the Senator from South Dakota if he is not aware that in testimony before the Senate Finance Committee, at pages 651 to 659, the Secretary of the National Cooperative Milk Producers' Federation pointed out a significant part of the cost to which the Senator has just alluded, namely, that in terms of our trade in the year 1938 his study showed that we gave to foreign countries concessions on $561,734,000 more goods than we received. On duty reductions alone we came out in the red to the extent of $70,420,000.

Mr. GURNEY. I knew that the balance was against us, but I did not know the exact figures, and I thank the Senator for supplying them.

A very striking example of the effect of these reciprocal-trade treaties is the rapid growth of the cotton-raising industry in South America, where nations have grown wealthy on markets that were once the exclusive markets of the cotton planter in the southern part of the United States. In a lesser sense the same thing has taken place with corn, hogs, wheat, barley, and all of the rest of our agricultural crops. Are we going to continue along these lines and sacrifice our own markets in the United States to foreign invasion because a generous National Government feels that it is the nice thing to do? After all, any government should look after its own people first. That may sound selfish, but it is practical common sense.

The administration has told us that this has been absolutely necessary in order to build up our foreign trade so that we may have a market for our excess production, but in actual effect it has built up the foreigner's market in this country so that he has an outlet not only for his excess production but for his entire crop at much better prices than he was able to get elsewhere. Perhaps it looked like a good plan when it started, but now when it so certainly is not a good plan, why should it be continued?

It is to the best interests of the farmer, the labor unions, the small merchants, and the common laborers that authority for these trade treaties be not continued, for the reason that these classes of our people produce only for the domestic market, and because it is to their interests to build up America before undertaking to salvage the economy of the world.

The whole Hull policy is plainly designed to let in raw materials, thereby injuring the economy of 40 out of our 48 States. These incoming raw materials can only be liquidated with the exports from favored industries, and I use this word "favored" advisedly, because these trade treaties are protecting the very interests that stand charged by the administration with having engaged in nefarious practices to put through the tariff schedules contained in former tariff bills.

The farm plan of the present administration kisses the farmer's cheek with the soil benefit check, that he grow less, and slaps his other cheek with free trade in agricultural products. The great American market—half the market of the world—is thrown open to peon-labor-produced crops from foreign countries, sent in to compete with the American farmer, rightfully entitled to the American standard of living.

While the administration rightfully curses sweatshop and child labor in American factories, yet by its free-trade policy, these reciprocal-trade treaties, with their most-favored-nation clauses, compel the American farmer to compete with the low-paid sweatshop and child labor in the fields of other countries.

The policy pursued by the administration has been directed at raising American costs, as evidenced by the debasement of our dollar, the reduction in hours of labor and increased hourly rates of pay, and increased taxation. I am not at this time discussing the merits of these policies, but I do wish to emphasize that while the administration has been raising the cost of American production in trying to create a more abundant life, the very countries which they propose, through these reciprocal-trade treaties, to put in direct competition with our producers, have been lowering their standards of living, and it is this competition which they ask the producers of America to compete against.

It is apparent that there is an inconsistency in policy, with the administration on one hand raising the cost of production in this country and on the other hand encouraging importation of foreign goods produced under a continuously lower standard of living.

In practically all cases when trade treaties are discussed, generalities are dealt with; but I wish to show by one specific case that they accomplish little, if anything, in the interest of the American producers.

Hon. Cordell Hull, Secretary of State, in attempting to justify the Reciprocal Trade Agreements Act, testified before the Senate Finance Committee on February 26, 1940, as follows:

> In the trade agreements we have made some limited reductions in duties on certain products. So carefully have these adjustments been made and so painstakingly have they been safeguarded wherever need for safeguards was demonstrated, that these duty reductions have not inflicted any injury on any group of producers. No satisfactory evidence to the contrary has been brought forward—for the simple reason that no injury to our producers has, in fact, occurred.

I propose to show that this statement is contrary to the facts; and in proof I wish to submit a specific case. The one I have in mind is manganese, which is of particular importance to the State which I represent, and, in fact, to the United States as a whole, as evidenced from the following statements made by the War Department.

Hon. Frederick H. Payne, Assistant Secretary of War, said on November 10, 1930:

> Of the raw materials necessary to us in war, none is more important than manganese. The problem of providing an adequate supply is aggravated by the fact that we largely rely upon foreign sources to meet our demands in this material. Consequently, it is easy to see why we are so interested in the activities of the American Manganese Producers Association. (Convention proceedings, A. M. P. A., November 10, 1930.)

Maj. Alfred H. Hobley, expert in charge of Raw Materials Division of War Department, said:

> In the case of shortage of shipping or enemy interference with shipping, volume becomes a matter of considerable importance. There is, of course, a great difference in the volume of the various essential raw materials. In the case of platinum, for instance, enough could be brought into the country in a trunk to last almost a year. In the case of manganese, the annual domestic consumption is in the neighborhood of 700,000 to 800,000 tons of ore, which would require considerable shipping capacity. * * * (Convention proceedings, American Manganese Producers Association, November 10, 1930.)

The present situation in the manganese industry is well explained on page 43 of the published Army Extension Course, 1931 edition, Industrial Mobilization Plans, prepared by the

War Department, which summarizes the domestic manganese industry as follows:

In spite of all handicaps, however, enough interest has been stimulated to result in the creation of a capacity much larger than indicated by annual domestic production and a readiness for expansion that is a decidedly important military asset.

Maj. Alfred H. Hobley, speaking in behalf of the War Department before the American Manganese Producers Association convention on November 10, 1930, made the following statement:

After considering all possible solutions to the manganese problem, it appears that one of the safest methods from the standpoint of production in wartime is the development of the domestic industry to the point where it would be in existence and offer a satisfactory nucleus for expansion to the necessary degree to meet the increased needs that might arise as a result of military activity. To a certain extent this is what the domestic manganese producers have been trying to do, and in which they have encountered considerable difficulty and resistance.

I also wish to quote the President himself, from his message to Congress on the 2d day of March 1934, requesting trade-treaty legislation, in which he said:

You and I know, too, that it is important that the country possess within its borders a necessary diversity and balance to maintain a rounded national life; that it must sustain activities vital to national defense, and that such interests cannot be sacrificed for passing advantage.

I have shown the importance of manganese to American industry, and particularly in terms of national defense, recognized by both the War Department and the President himself; but in order that the Members of the Senate may have a complete background of what this industry involves, I shall briefly describe it.

DESCRIPTION OF INDUSTRY

Manganese is classed as an essential war mineral; but also no mineral is of greater importance to the material welfare of the Nation in time of peace. Our steel industry could not operate without manganese. Repeated attempts have been made in this country and abroad to substitute other materials, but always without success. Even Germany, lacking an adequate supply of manganese within her own borders during the Great War, kept her steel furnaces alive only because she managed at tremendous cost to obtain the element by reworking old slags and former waste products. Outside of steel making, manganese has other uses which are vital to the military security of the country, notably as an essential ingredient of dry batteries used in flashlights and signaling apparatus. It is used in paints as a drier, and to some extent as a pigment, and it enters into various useful chemicals, including potassium permanganate. By far the main use, however, is in steel manufacture. In the United States the iron and steel industry normally consumes the equivalent of 750,000 out of a total of some 800,000 tons of manganese ore used annually.

For use in steel making manganese is ordinarily first made into the form of ferromanganese, an alloy containing about 79 percent of manganese, the remainder being iron, carbon, and a small amount of impurities.

I call attention particularly to the figures of imports for consumption in 1936, amounting to more than 800,000 tons of high-grade manganese ore and low-grade ores in increasing monthly amounts. Page 301 of Manganese and Manganiferous Ores, 1929, United States Bureau of Mines, shows that in 1929 we used 1,059,178 tons of high-grade manganese ore, or the equivalent in low-grade ores.

The mining of manganiferous iron ores is only one phase of the manganese industry, but normally it results in payments to the miners of the Lake Superior region amounting to practically $4,000,000 annually, and approximately the same amount is distributed to transportation companies for carrying the ore from the Minnesota ranges to the furnaces in Ohio, Pennsylvania, and Illinois. Imports of foreign manganese ores and alloys serve to replace corresponding tonnage of domestic ores and to throw out of work a corresponding number of American workmen.

In 1922 Congress provided a duty of 1 cent per pound on metallic manganese contained in ores running above 30 percent metallic manganese. Production of domestic ore was retarded through the refusal of certain major steel companies to buy domestic ore even at prices less than were being paid for foreign ores of similar grade. Production was further retarded through the importation duty free of ores running slightly under 30 percent manganese. In 1930 the 1-cent tariff was extended to cover ore running above 10 percent manganese. On account of the depressed condition of the market since 1930, the full beneficial effect of this duty was never felt.

Because of the fact that manganese tops the list as the No. 1 strategic war mineral essential to our national defense, and because the development and maintenance of a domestic industry is of such vital importance both to our peacetime and wartime requirements, let us examine exactly how the industry has been treated under the reciprocal-trade program of this administration.

The following table shows the imports of manganese ore into the United States from both Brazil and Russia for the years 1932 to 1939, inclusive. Those two countries are used because they supply a substantial part of our manganese requirements and because I wish to discuss the treaties with those two countries.

[Figures from U. S. Bureau of Mines publications]

Year	Brazil	Russia
	Long tons	*Long tons*
1932	21,500	55,437
1933	None	83,780
1934	55,834	124,836
1935	29,528	153,200
1936	110,018	289,867
1937	77,988	383,949
1938	29,698	166,043
1939 (11 months)[1]	32,589	114,064

[1] Preliminary figures for 1939.

One of the earlier trade treaties was effected with Brazil; and manganese was included in this treaty as one of the commodities on which Brazil was granted a 50-percent tariff reduction. In reference to this concession to Brazil, I wish to quote from page 483 of Minerals Yearbook, 1935, prepared and published under the direction of Hon. Harold L. Ickes, Secretary of the Interior:

On February 2, 1935, the United States and Brazil signed a reciprocal-trade agreement which, among other concessions, provided for a reduction of 50 percent in the present American duty on manganese ore imported from Brazil. If confined to Brazil, the lowered duty will inevitably stimulate production there. If, however, the reduction in duty is granted other nations supplying the American market, Brazil will have no competitive advantage due to the agreement.

That is exactly what happened. Unfortunately for Brazil, the reduction in duty on manganese was not confined to Brazil and was extended to Russia. It will readily be seen from the above table of imports from Brazil and Russia that any advantage pertaining to Brazil was quickly canceled, and that in reality Russia gained the advantage from the Brazilian treaty.

This is a typical example of one country being granted a concession, only to allow another country to come through the back door and nullify the original treaty.

But the point which I wish to make is that the net result of the reduction of the tariff on manganese to Brazil has been to throttle the domestic production of manganese, and to deprive the United States Government of over $18,000,000 in duties which has, in actuality, been a subsidy of this amount to the United States steel industry.

I should like also to call attention to the fact that this action has been taken in the face of requests by the War and Navy Departments for appropriations totaling millions of dollars for the purchase of stock piles of strategic materials essential in the conduct of war, and of the millions of dollars which have been appropriated and spent, something like ten or fifteen million dollars have been used in the purchase of manganese.

In other words, here is a specific example of a reciprocal-trade treaty accomplishing nothing except to subsidize the steel industry to the extent of $18,000,000, at the expense of the domestic manganese industry, and in face of the fact that we are spending millions of dollars in acquiring this strategic material in the interests of national defense.

I feel this fully answers Mr. Hull's contention that reciprocal-trade treaties have hurt no one; and if no satisfactory evidence to the contrary has been brought forward, it is for the simple reason that the State Department has refused to recognize any criticisms of their reciprocal-tariff program.

Mr. President, my State of South Dakota needs industry, as other States need more industry. We need expansion in industry tremendously, in order to give honest employment to our idle citizens. In South Dakota is a great undeveloped supply of manganese ore. Surveys show 100,000,000 tons of manganese deposits—sufficient to supply our own peacetime steel industry for a period of 100 years. All that is necessary to have a wonderful development there is a stable governmental policy. It needs only a fair tariff protection in order to be developed and make jobs. Its development will go almost all the way in solving the problem of where we are to get that No. 1 strategic mineral—manganese

The immediate effect of the reciprocal trade treaty policy has been to discourage development of manganese ores, not only in South Dakota but in all other States. Following the good-neighbor policy through the trade treaties, Brazil was given the concession of a 50-percent reduction in the manganese tariff. Undoubtedly the producers of manganese in Brazil were as jubilant as the owners in this country of the undeveloped manganese resources were depressed when this concession was made. However, I am sure that the Brazilian producers are not so jubilant now because their exports to the United States have had to compete with manganese exports from other countries, such as Russia, where manganese can be produced cheaper, and Brazil has lost the market they thought they were going to get. And all because of the reductions in the tariff on manganese originally made in the Brazilian trade treaty which went into effect in January 1936, South Dakota and other States do not now have an industry that could be employing thousands of men and paying millions of dollars in taxes and pay rolls each year. Our domestic manganese industry is undeveloped and the reciprocal trade treaty policy is responsible for that condition.

Mr. AUSTIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Vermont?

Mr. GURNEY. I yield.

Mr. AUSTIN. Mr. President, I wish to ask the distinguished Senator from South Dakota about the bearing of his theory upon labor. Looking into the future not far away and imagining a country in competition with us in the production of manganese and other products of mines, imagining a country where labor is all commanded by the government, where no laborer can afford to leave his job because he knows he will starve if he does not continue to work for his government, I ask the Senator of what avail will trade treaties which cut down existing tariffs 50 percent be to protect our miners against the competition of men who have to obey and who cannot have anything to say about their standard of wages or diet or clothing or shelter?

Mr. GURNEY. I thank the Senator. Unquestionably trade treaties would afford no protection, but on the contrary would reduce employment in this country, because any mineral can be produced cheaper in countries where labor is corralled and made to work.

Mr. President, I wish to hurry along because other Senators desire to speak, and I have a few remarks yet to make.

In my remarks I have simply tried to show that the reciprocal-trade treaties run contrary to the interests of this country.

Because of their definite effect on our national economy, we have heard so much discussion of these treaties that I felt it would be well to bring out a specific case which I have attempted to do in this instance, namely, manganese. The development of this domestic industry has unquestionably been hurt by reciprocal treaties, irrespective of the statement made by Mr. Hull.

I have quoted statements from the War Department and the President himself, showing the importance of manganese to national defense. I have also included a brief description of the industry, which may serve as a background for any action taken by the Senate. In this particular case, it is obvious that nothing was accomplished by the Brazilian treaty and, in fact, Russia was the one who gained, at the expense of the domestic producer and the United States Treasury, and of Brazil.

In conclusion, let me quote from information contained in the hearings before the Senate Committee on Finance, which has been studying the question of continuing the authority as expressed in Joint Resolution 407 now before us. I find on pages 467 and 470 the following:

All that the United States now needs to solve its problem of manganese for national defense is the installation and maintenance of additional processing plants. This can and will be done by the industry if a fair market is made available to domestic producers. However, unless the industry is stabilized by adequate tariff protection, a temporary increase in price would not warrant additional major investments, and therefore additional plants with a substantial increase in production could not be expected.

Continuing the quotation:

COOPERATION

Congress has repeatedly expressed its will and intent to encourage the further development of the manganese resources of the Nation, but it is to be regretted that full cooperation from the administrative arm of the Government has not yet been forthcoming.

Continuing on page 470:

A stock pile of 1,000,000 tons of manganese has been recommended. Even such a stock pile still will not assure the country adequate security as no one can foretell how long an emergency will last. Domestic mines cannot in a short period of time, ordinarily allowed in an emergency, produce sufficient to meet the demands. It requires time to carry forward development work underground and install the necessary plants.

And here are the conclusions, continuing the quotation:

CONCLUSIONS

Through the reduction in the manganese ore duty in the trade agreement with Brazil, our country since 1936 has lost in revenue $18,422,320, which was formerly enjoyed by the United States Treasury. This loss will continue to increase. In addition, since 1936, we have sacrificed the continued development of our own manganese resources for national defense. To cover up this mistake, the strategic-materials bill was passed by Congress, authorizing the appropriation and expenditure of $100,000,000 over a 4-year period for the purchase and stock pile of strategic minerals of which manganese is the major item. Even the Strategic Materials Act will not solve the manganese problem. In an emergency, such as we may now be facing, domestic mines will still have to be put into operation. It is possible we have waited too long already. This is indicated by the results of the recent repeated Government calls for bids for manganese ore under the Strategic Materials Act. To date only one small order of 25,000 tons has actually been contracted for. The results of the bids indicate that a sufficient quantity of the grade of ore called for by the Government is not readily available from foreign or domestic sources. Our country has the reserves of ore, the labor, and the capital. However, it cannot be expected that substantial investments in additional developments and milling plants will be made until assurances are given that the domestic production will be protected against future importations of manganese ores from Soviet Russia, produced by Communist and forced labor where cost means nothing, or ores from India which are mined by labor paid the equivalent of 1½ cents per hour. Restoration of the tariff to a parity basis with steel is necessary to help stabilize the manganese industry on a basis similar to that enjoyed by steel.

Continuing the quotation, here are the recommendations:

RECOMMENDATIONS FOR NATIONAL DEFENSE

1. Restore the duty

Terminate or modify the trade agreement with Brazil so that the manganese ore duty may be established on a parity basis with steel products. This will, prior to the date of restoration, encourage and permit importers to store within the United States, under the present reduced rate of duty, all manganese ores they can find available in the world's markets and thereby force the formation of a stock pile at no cost to the Government.

At the same time it will encourage and permit domestic producers to immediately make additional investments, carry forward de-

velopment work, install additional plants, and increase production to help take care of the needs of the United States at no cost to the Government.

2. Stock pile

If a Government-owned stock pile is considered advisable, then let appropriations be made under the Strategic Materials Act for the Government to purchase and store manganese ores exclusively of domestic origin during such periods when prices are low and no other outlets for the ore are available, thus encouraging further developments and maintaining a healthy nucleus of a manganese industry within the United States ready for expanded production to meet the needs in an emergency.

These recommendations may be carried out and results obtained in accordance with the will of Congress and at no ultimate cost to the Government, provided that existing and future trade agreements are made subject to the approval of the Senate.

Mr. President, I want to read now a resolution adopted by the Land O'Lakes Creameries, Inc., of Minnesota. This is a great cooperative, built by the dairy farmers of Minnesota, and the resolution I refer to was adopted at its recent annual meeting:

While reciprocal-trade treaties can be made a valuable asset in establishing trade relations between the United States and foreign countries, they can likewise become a national liability if they are not made in conformity with the principles we have established for the American standard of living, which cannot be maintained unless we protect the American producer and the American worker against the competition of low-paid foreign labor and depreciated foreign currencies which permit of lower costs of production.

We are not opposed to the principles of trade treaties if such agreements, when consummated, deal with such items of production or manufacture which we do not produce at all or cannot produce within the economics of our American standard of living or when such treaties do not affect parity price levels as compared with this standard.

We believe that the trade agreements already entered into and those contemplated by the Federal Government are and will be of further detriment, particularly to the dairy, livestock, and poultry producers. The progressive reduction of duties on these items threatens not only to limit the opportunities for American farmers to find markets in the United States but to force a minimum rate of income to these producers far below the needs of farmers if they are to have anything that approaches a rightful share of the national income.

Prices of domestic products can never be higher at any time than the international price plus the "tariff wall." We protest against our interests being traded off for the benefit of a few large industries, such as the automotive, chemical, machinery, and other groups in order to enable such industries to increase their exports. We believe it is a short-sighted policy for these groups to support the downward revision through reciprocal-trade treaties of tariffs on agricultural products because of the fact that their increased exports under these arrangements will nowhere equal the increased demand for their manufactured products on the part of American farmers if they have parity prices with which to purchase these items.

We urge the Senators, Representatives, executive and administrative departments of our National Government to recognize and adhere to the aforesaid principles with respect to trade treaties and that full hearings be given to the spokesmen for agricultural commodities affected in any way by treaty concessions, with a guaranty that the views of such spokesmen will be given every consideration and that no treaty will be consummated until a full and complete record of such hearings has been made available to the public.

And, furthermore, that the United States Senate must approve every proposed trade treaty or agreement in its entirety in order to make it effective.

I ask unanimous consent to have inserted in the RECORD, following my remarks, a list of 22 commodities directly competitive with products produced by farmers of the United States. This is a comparative schedule of these 22 commodities for the years 1938 and 1939 and shows immensely increased imports last year over the previous year.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Farm imports

[U. S. Department of Commerce figures]

	Unit	1938	1939
Cattle	Head	424,022	753,570
Canned beef	Pounds	78,597,000	85,863,000
Mutton, fresh	Pounds	43	105,000
Cattle hides	Pounds	59,650,000	134,107,000
Sheep and lamb skins	Pounds	32,649,000	63,776,000
Silver-fox skins	Number	16,468	133,251
Barley	Bushels	126,000	776,000
Oats	Bushels	7,183	4,293,000

Farm imports—Continued

	Unit	1938	1939
Wheat	Bushels	3,829,000	10,747,000
Wheat byproduct feeds	Tons	58,394	458,957
Hay	Tons	18,954	48,348
Potatoes, white or Irish	Pounds	45,820,000	93,859,000
Potato starch	Pounds	6,647,000	10,984,000
Tapioca	Pounds	230,879,000	382,803,000
Peas, canned	Pounds	450,000	1,159,000
Pineapples, prepared	Pounds	31,524,000	74,991,000
Cherries, fresh	Pounds	855,000	1,482,000
Wool, unmanufactured	Pounds	104,274,000	245,970,000
Wool noils, wastes, and rags	Pounds	3,803,000	18,343,000
Maple sugar and sirup	Pounds	3,984,000	12,268,000
Milk, dried and malted	Pounds	80,735	2,465,032
Casein (milk product)	Pounds	417,000	15,832,000

NOTE.—1939 increases over 1938.

Mr. WILEY. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram received by me from Mr. Milo K. Swanton, executive secretary, Wisconsin Council of Agriculture.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MADISON, WIS., *March 28, 1940.*

Senator ALEXANDER WILEY,
Senate Office Building:

Council Agriculture wish your support Senate ratification of reciprocal-trade agreements.

MILO K. SWANTON,
Executive Secretary, Wisconsin Council of Agriculture.

Mr. NORRIS obtained the floor.

Mr. BYRNES. Mr. President, will the Senator yield in order that I may suggest the absence of a quorum?

The PRESIDING OFFICER. Does the Senator from Nebraska yield for that purpose?

Mr. NORRIS. I yield.

Mr. BYRNES. I make the point that there is no quorum present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Downey	Lee	Schwartz
Ashurst	Ellender	Lodge	Schwellenbach
Austin	Frazier	Lucas	Sheppard
Bankhead	George	Lundeen	Shipstead
Barbour	Gerry	McCarran	Smathers
Barkley	Gibson	McKellar	Smith
Bilbo	Gillette	McNary	Stewart
Bone	Glass	Maloney	Taft
Bridges	Green	Mead	Thomas, Idaho
Brown	Guffey	Miller	Thomas, Okla.
Bulow	Gurney	Minton	Thomas, Utah
Byrd	Hale	Murray	Tobey
Byrnes	Harrison	Neely	Townsend
Capper	Hatch	Norris	Truman
Caraway	Hayden	Nye	Vandenberg
Chandler	Herring	O'Mahoney	Van Nuys
Chavez	Holman	Overton	Wagner
Clark, Idaho	Holt	Pepper	Walsh
Clark, Mo.	Hughes	Pittman	White
Connally	Johnson, Calif.	Radcliffe	Wiley
Danaher	Johnson, Colo.	Reed	
Davis	King	Reynolds	
Donahey	La Follette	Russell	

The PRESIDING OFFICER. Eighty-nine Senators have answered to the roll call. There is a quorum present.

Mr. NORRIS. Mr. President, since the birth of our Nation up to the present hour, Congress never has passed an efficient, scientific, or fair tariff act. From the very nature of things a tariff act resolves itself into a logrolling affair. I am not complaining of that. It is natural. It could not be otherwise unless human nature were changed. The idea that 435 Members of the House and 96 Members of the Senate can sit down and agree to a fair, efficient, scientific tariff act containing 5,000 separate items is simply absurd. It cannot be done. It is an impossibility.

The Senator from Colorado [Mr. ADAMS], in a very eloquent address here today, said that if we delegated any of this power to somebody else it was an admission of our inefficiency, or words to that effect. In my judgment, instead of being an admission of inefficiency, or lack of ability, it is a confession that we are, after all, only human beings.

Those who oppose this kind of legislation, it seems to me, are standing before the country in an attitude of saying that 531 men can make a fair, efficient, workable tariff act. Everyone knows that is not possible.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BARKLEY. Let me remind the Senator and the Senate that the present tariff law was begun in the House of Representatives in December 1928 and was passed and signed finally by the President in June 1930, taking 19 months, in the two Houses, to write a tariff law.

Mr. NORRIS. That is a fair statement.

Mr. BARKLEY. That is the literal truth.

Mr. NORRIS. It is the truth, of course. What do we get? We get a law which everyone knows is imperfect. It is logrolling legislation. It is natural for all of us to engage in that. We cannot keep out of it. We cannot avoid it when that kind of a proposition is submitted to 531 men. So that it is a confession that, after all, we are human beings. We make no claim to divinity. We make no claim to being superhuman beings. We make no claim that we can perform impossibilities. Everyone who has studied the question at all knows I have stated a fact. The Presiding Officer knows it; the Senate knows it; the House knows it from long experience; the President of the United States knows it; God knows it; the Supreme Court knows it and will take jurisdiction of it as soon as this question reaches the Court. Some of them have had experience with it. They know that what I say is true.

Why, then, say that 531 men, with interests in South Dakota, in Florida, in Nebraska, in Maine, all mixed up together, after logrolling and helping each other out and making the necessary agreements, can pass a perfect tariff bill? Any such bill passed is imperfect, of course. We do not expect it to be perfect. It is not only imperfect, but it is illogical, it is put together in the wrong way. It is not possible to make a good statute by logrolling methods. Everyone knows that the logroller is in control when tariff bills are made in the House and in the Senate.

For years we have tried to get some instrumentality to help us out of this difficult situation. We are confronted with the Constitution, giving Congress jurisdiction and authority to make tariffs. We have found that it has been impossible to enact an efficient, workable, tariff bill. We may agree we are going to frame it on certain conditions, considering the difference in the costs of production, but when we come to vote for a tariff on a little commodity produced in our home section, that is what we are thinking about. We are for manganese in one place; we are for potatoes in another place; we are for wheat in another place, we are for everything under the heavens in some place, and we agree to let the manganese fellow have his way, and the wheat man have his way, and the potato man have his way; and we make a tariff.

We started with the idea several years ago of having a tariff commission to help us. Why did we do that if we were competent to handle the matter ourselves? We have tried for several years, through trade agreements, to frame effective, fair, workable tariffs. Why did we do that? Because we were unable, under the very conditions which confront us under the Constitution, to do it ourselves.

We have had great assistance. We have made advancement. We will make more advancement as fast as we can devise new methods of getting somebody, some lesser number of competent experts, to do this job. We know that we cannot ourselves do it effectively.

Mr. President, I have made this statement about the inability of Congress to make tariffs because, in my judgment, it will have a direct bearing upon the question when it reaches the Supreme Court and they decide whether or not we overstepped our constitutional limitations when we provided for the agreements covered by the law now on the statute books. We must take everything into consideration.

The Supreme Court has discussed this matter a number of times. We have had their decisions pro and con. I do not intend to repeat them. I shall avoid repetition if that is possible, but at this point I wish to insert as a part of my remarks the report of the Committee on Finance on the pending joint resolution.

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Is there objection?

There being no objection, the report (No. 1297) was ordered to be printed in the RECORD, as follows:

The Committee on Finance, to whom was referred the joint resolution (H. J. Res. 407) to extend the authority of the President under section 350 of the Tariff Act of 1930, as amended, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

TESTIMONY ON OPERATION OF TRADE AGREEMENTS ACT

The committee has heard the testimony of numerous witnesses relating to the manner in which the Trade Agreements Act has been administered during the past 5½ years and the effect of the agreements on various domestic interests. It has also had before it the extensive record on this subject of the hearings held by the Ways and Means Committee of the House of Representatives. The voluminous testimony leaves the committee with the clear conviction that the authority delegated to the Executive by this act has been carefully and painstakingly administered with due regard not only to the national interest as a whole but also to the particular interests immediately affected. Striking testimony to this effect was offered by W. L. Monro, president of the American Tariff League, who, although critical of the program, said in his 1938 annual report:

"I will also stress the fact that, in carrying out the trade-agreement policy by Mr. Hull, great credit should be given to the fact that there has been no suspicion of political influence regarding the reduction of duties on any of the articles placed on the reciprocal-trade list. I believe that everyone who has had occasion to contact the staff that makes up the schedules must admit that, regardless of whether we approve of the policy or not, the agreements were prepared solely with a viewpoint of endeavoring to increase foreign trade with the least injury to domestic production."

On March 5, 1940, appearing before this committee, Mr. Monro reaffirmed this opinion.

It is unnecessary to summarize in detail the voluminous testimony presented before the committee and before the Ways and Means Committee of the House. The report of the Ways and Means Committee analyzes the most important aspects of the testimony before that committee on the merits of this legislation.

Let us recall briefly the background against which the trade-agreements program was enacted by the Congress 6 years ago and the improvement which has taken place since that time.

Between 1929 and 1932 our national income had dropped from eighty and eight-tenths to thirty-nine and five-tenths billion dollars. Between 1934 and 1939 it had increased from fifty and six-tenths to seventy billion dollars.

Cash farm income, which had amounted to $11,200,000,000 in 1929, had dropped to the low level of four and seven-tenths billions in 1932; in 1934 had increased to six and three-tenths billions; and by 1939 had recovered to seven and seven-tenths billions, excluding benefit payments.

The wages and salaries in manufacturing industries, which had been $15,800,000,000 in 1929, dropped to seven and four-tenths billions in 1932; had risen to nine and three-tenths billions in 1934; and had increased further to $12,600,000,000 in 1939.

Nonagricultural employment, which had engaged 36,200,000 persons in 1929, had fallen to 27,800,000 in 1932; 30,300,000 persons were employed in nonagricultural pursuits in 1934; and employment recovered to a level of 33,700,000 persons in 1939.

Between 1929 and 1932 our exports declined from five and two-tenths to one and six-tenths billion dollars. This loss of more than three and one-half billion dollars of export business accentuated the difficulties which marked those years. The adoption of the Trade Agreements Act was one part of the program adopted to cope with the problems of that emergency. By 1939 our exports, which in 1934 amounted to two and one-tenth billions, had recovered to a level of $3,200,000,000.

To show the role the trade agreements have played in this improvement in our export trade, there is included herein a table taken from Commerce Reports of February 17, 1940, showing trade with agreement and nonagreement countries. As shown by this table, exports to trade-agreement countries increased by 62.8 percent, whereas those to nonagreement countries improved by only 31.7 percent.

Between 1929 and 1932 there was also a pronounced decline in our imports. Entries from abroad, which had amounted to $4,300,000,000 in 1929, were only one and four-tenths billions in 1932 and one and six-tenths billions in 1934. In the years since the trade-agreements program has been in effect imports have increased, and in 1939 amounted to $2,300,000,000. This increase made possible in part the additional purchasing power required to finance our expanding export trade. As shown by the table, the increase in imports from agreement countries amounted to 21.6 percent, compared with that for other countries of only 12.5 percent.

United States trade with trade-agreement countries and with all other countries, 1939 compared with 1938, and 1938–39 compared with 1934–35

[Values in millions of dollars]

Items	Comparison of 1939 with 1938				Comparison of 1938–39 with 1934–35			
	1938 value	1939 value	Change		1934–35 average value	1938–39 average value	Change	
			Value	Percent			Value	Percent
Exports, including reexports								
Total, trade-agreement countries	[1] 1,758	[1] 1,901	+142	+8.1	[2] 757	[2] 1,232	+475	+62.8
Total, nonagreement countries	1,336	1,277	−59	−4.5	[3] 992	[3] 1,306	+314	+31.7
Total, all countries	3,094	3,177	+83	+2.7	2,208	3,136	+928	+42.0
General imports								
Total, trade-agreement countries	[1] 1,155	[1] 1,387	+233	+20.1	[2] 774	[2] 942	+168	+21.6
Total, nonagreement countries	806	931	+125	+15.6	[3] 772	[3] 868	+97	+12.5
Total, all countries	1,960	2,318	+358	+18.3	1,851	2,139	+288	+15.6

[1] Including the 18 countries (and colonies) with which agreements were in operation during the greater part of the last 12 months. Only 1 of the agreements was in operation throughout 1935, 6 throughout 1936, 14 by the end of 1936, 16 by the end of 1937, 17 by the end of 1938, and 18 by the end of 1939, including the agreement with the United Kingdom (covering also Newfoundland and the non-self-governing British colonies). The agreement concluded with Turkey became provisionally effective only on May 5, 1939, and the agreement with Venezuela only on Dec. 16, 1939. Statistics for these countries are therefore not included in the above calculations.

[2] These figures do not include Ecuador, the United Kingdom, Newfoundland, and non-self-governing British colonies, Turkey, and Venezuela with which agreements have been concluded but where the period during which the agreement has been in effect is too short to justify inclusion for purposes of comparison.

[3] The apparent discrepancy shown by these figures in comparison with the other totals is due to the noninclusion of trade with Ecuador and the United Kingdom and its Crown colonies.

GENERAL NOTE.—Percentage changes have been calculated upon fuller figures in thousands of dollars.

Source: Latest records of Division of Foreign Trade Statistics, Bureau of Foreign and Domestic Commerce.

Reviewing the testimony as a whole, the most striking feature is that the trade-agreements program has accomplished highly beneficial results in the face of trying and discouraging conditions. The record of nearly 6 years' experience with the program shows that reciprocal-trade agreements have been negotiated with 21 countries, accounting for about 60 percent of our foreign trade. In these agreements concessions have been obtained on thousands of separate tariff items, providing improved outlets for hundreds of American agricultural and industrial products. The agreements have in addition safeguarded a large amount of our export trade from the further inroads of trade barriers and discriminations.

In view of the period of time that this act has been in effect, and the scope of the action taken under its authority, it is highly significant that in the course of the hearings before this committee and before the Ways and Means Committee very few witnesses claimed that actual injury had resulted from the agreements. Most of the witnesses appearing in opposition to the program based their opposition not on any claim of injury suffered in the past, but on the apprehension that injury might be suffered in the future. No convincing evidence was presented in support of the relatively few claims that injury has resulted from the agreements. The care with which this authority has been exercised in the past is the surest guaranty against injury in the future. Moreover, the committee is convinced that the "escape" clauses of the agreements themselves provide ample flexibility for dealing with such contingencies as may occur.

PUBLIC SUPPORT OF THE PROGRAM

This program has stood up under the most critical examination in the course of the extended hearings. More than that, it has had perhaps the most widespread approval throughout the country which any important piece of tariff legislation has ever enjoyed. Evidence of this is found in the overwhelming support by the newspapers of the country. Some of the strongest support for this program has come from Republican and independent papers. The same nonpartisan support is found in the polls of public opinion and the almost unanimous endorsement given the program by economists from all sections of the country and by many important national organizations.

NO FEASIBLE ALTERNATIVE SUGGESTED

A further striking feature of the current discussion of this legislation is the absence of any suggestions as to feasible alternatives on the part of those who oppose it. Many opponents of the trade agreements agree that the Nation cannot dispense with a foreign-trade program of some kind. However, most of the opposition witnesses before this committee and the Ways and Means Committee, when asked what they would propose as a substitute for the reciprocal trade agreement program, had no suggestions to offer other than a return to the policy of excessive tariffs such as we had under the Smoot-Hawley Tariff Act of 1930. The disastrous results of such a policy have been so amply demonstrated that there is no need for further comment on the subject in this report.

The only other type of policy which has been suggested is one which, in the opinion of the committee, would be even more objectionable than a return to tariffs of the Smoot-Hawley variety. That suggestion is one which would involve a thoroughgoing regimentation of our foreign trade and of domestic industry and agriculture as well. The following quotation from the statement of the Secretary of State, when he appeared before the committee, is pertinent in this connection:

"Other opponents of the trade-agreements program are putting forward proposals which, in the guise of an allegedly 'more realistic' approach to the whole problem of foreign trade, would go beyond the extremes of the Hawley-Smoot policy and would commit this country to the use of exchange controls, quotas, and all the other devices which in recent years have disrupted and retarded international trade. To abandon the trade-agreements program and to substitute for it a system of this kind would be to destroy the only policy which in recent years has offered effective resistance to a spread of these destructive practices. It would be equivalent to committing our Nation to a course of far-reaching economic regimentation, since the experience of other nations shows clearly that, in an effort to make extreme trade controls function effectively, regimentation has to be constantly extended to other phases of business activity and of economic life in general. It would be a starkly realistic approach, not to an effective promotion of our foreign trade, but to governmental control over business activity on a scale never before attempted in this country, and to a policy of plunging this country into destructive economic warfare, from which no nation ever emerges the gainer.

"The trade-agreements program has enabled us to expand our foreign trade without subjecting it to the strait jacket of extreme Government control. Under it, our trade has increased far more markedly than that of any other of the commercially important nations.

"The program has been devised and carried out as a means of creating conditions in which free enterprise can function most effectively. Reversion to a policy of extreme protectionism or substitution for the trade-agreements program of a policy under which we would adopt all the instruments of economic warfare that have been so disastrously prevalent in the recent past would not only wipe out our recent trade gains but would impose upon our people a further national loss of staggering proportions. Our Government would be compelled to adopt most costly and difficult measures of relief and adjustment and to regiment the country's economic activity. And the most astonishing thing is that courses of action which must inevitably lead to these results are proposed and advocated by the very people who like to regard themselves as the real proponents of free enterprise and nonintervention of government in economic life.

"This is the crux of the whole issue. The question of the survival or disappearance of free enterprise in our country and in the world is bound up with the continuation or abandonment of the trade-agreements program."

PROPOSALS TO REQUIRE CONGRESSIONAL APPROVAL OF INDIVIDUAL AGREEMENTS

Since an impregnable record buttressed by public support bars a frontal attack on the program, the principal strategy of the opposition is a flank attack by means of crippling amendments. The type of amendment which seems to be most in favor for this purpose is that which would provide for Senate ratification or some kind of congressional approval of the individual agreements.

No legal question involved: This type of amendment has been advocated by some persons on the ground that it would remedy certain alleged constitutional defects in the act as it now stands. We shall not undertake here to review again the legal authorities and precedents which so amply support the constitutionality of the act; these are all to be found in the hearings which were held on this legislation in 1934, 1937, and 1940. The report of the Committee on Ways and Means of the House contains references to the principal authorities.

The following letter from the Attorney General, which was presented at the hearings, strongly confirms our original conclusion that there is no constitutional objection to this act:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., March 4, 1940.

The honorable the SECRETARY OF STATE.

MY DEAR MR. SECRETARY: Complying with your informal request, I am transmitting herewith a memorandum prepared in this Department concerning the constitutionality of the Foreign Trade Agreements Act.

It sets forth the authorities and principles which sustain a strong personal conviction on my part that there is no constitutional objection to this act, and that agreements executed under it are constitutionally unassailable.

Respectfully,

ROBERT H. JACKSON,
Attorney General.

(The text of the memorandum referred to in the letter appears in the record of the hearings before this committee on March 6, 1940.)

In view of the long line of precedents for Executive agreements, numbering at least 1,000, and the Supreme Court decisions recognizing the constitutional status of such agreements, the so-called treaty issue seems to be foreclosed as a subject for debate.

Likewise there can be no doubt that the authorities and precedents, which go back to the earliest days of the Nation, afford a complete answer to the charge that this act involves an unconstitutional delegation of legislative powers. The Trade Agreements Act was predicated upon the vital necessity of adopting a procedure which would permit Congress to fulfill its responsibility to regulate our foreign commerce so as to relieve and protect our overseas trade from excessive and arbitrary interference by foreign governments. Viewed in this light alone the act stands squarely within the bounds of the Constitution as laid down by the Supreme Court in the case of *United States* v. *Curtiss-Wright Export Corporation* (299 U. S. 304, 1936) where it was stated that—

"It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps, serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved."

Moreover, it may confidently be asserted that the Trade Agreements Act fully meets the constitutional principles governing legislation which does not involve international affairs. In the leading case of *Hampton Co.* v. *U. S.* (276 U. S. 394, 1928), Mr. Chief Justice Taft stated these basic principles as follows:

"In determining what it (the Congress) may do in seeking assistance from another branch (the Executive), the extent and character of that assistance must be fixed according to common sense and the inherent necessities of the governmental coordination.

* * * * * * *

"If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of legislative power."

The limitations and policies prescribed in the Trade Agreements Act constitute an intelligible principle or standard for the guidance of the Executive which is in no degree less precise than the standards contained in the flexible provisions of the Tariff Acts of 1922 and 1930, and the prior reciprocity statutory authorizations, all of which have been sustained by the courts. The same favorable comparison may be made with the authority delegated to the Interstate Commerce Commission, and upheld by the Supreme Court, to fix rates deemed to be just and reasonable and rates deemed necessary or desirable in the public interest.

Congressional approval from a policy standpoint: Since there is no genuine legal issue involved, any proposal for Senate ratification or congressional approval of the individual agreements must be dealt with purely as a question of policy. From a policy standpoint, the burden of proof is on those who advocate such amendments. The act having been in effect nearly 6 years, a proposal at this time to require a congressional review of each individual agreement could be justified only by an affirmative showing that there have been defects in the operation of the act as it now stands and that there is need for such an amendment. The exhaustive examination of the record discloses no such need. Moreover, experience under tariff legislation in the past shows conclusively that such an amendment would destroy the program. Let those who may doubt this consider our experience under section 3 of the Tariff Act of 1890 and under sections 3 and 4 of the act of 1897. Under section 4 of the latter act 12 treaties were negotiated and, in spite of the strong recommendations of President McKinley and President Theodore Roosevelt, not a single one was permitted to become effective. In contrast with this record of fruitless attempts at reciprocity treaties requiring Senate or congressional approval, is the record of Executive agreements negotiated under prior authorization of Congress but not subject to Senate ratification. Under the McKinley Act of 1890 some 12 reciprocity agreements were made effective, and under section 3 of the Dingley Tariff Act of 1897 some 14 or 15 similar agreements were brought into force.

In the light of experience it is abundantly clear that the requirement of Senate ratification or congressional approval of each individual trade agreement would nullify the program.

However, the committee does not seek to justify the present procedure solely on the ground that it is the only effective means of accomplishing the objectives of the Trade Agreements Act. The committee desires to emphasize that this procedure is wholly in accord with the principles of representative, democratic government. The reasons why this is true are, in the opinion of the committee, basic and wholly convincing.

In the first place it is well to remember that no trade agreement is made without the approval of Congress since the President can only conclude such agreements pursuant to the procedure and within the scope of the policies and limitations previously prescribed by both branches of the Congress. In this important respect trade agreements are completely and fundamentally unlike treaties which may be negotiated by the President without any prior authorization and without any limitations being previously prescribed by Congress or the Senate. It is necessary and wise that under such circumstances treaties should be subject to subsequent approval by the Senate as required by the Constitution, but conversely this sharp difference between treaties and trade agreements well illustrates why there is no such necessity for subsequent approval in the case of agreements which are only concluded pursuant to prior authorization and within the scope of policies previously laid down by Congress. Thus in the true and fundamental sense these agreements are concluded with the approval of both Houses of Congress.

Moreover, in the case of the trade agreements, congressional control is not limited to the prior authorization and prescription of policies and limitations set out in the act. Congress has reserved in the act itself, and it has now on two occasions exercised its right to review the administration of the act and the agreements which have been concluded. The Trade Agreements Act originally, and as extended in 1937, and as now proposed for further extension, limits the authority to conclude agreements to 3 years. In short, the Congress reserves the right to review periodically the operation of the act. No better proof of the thoroughgoing nature of this review can be found than the actual record of the hearings which have been held before this committee and the Ways and Means Committee of the House, both in 1937 and now again in 1940. The bulky volumes which contain the record of these hearings are in themselves convincing arguments that this has been no perfunctory review.

This periodic check-up is a form of subsequent congressional approval which is both practicable and in accord with the proper function of the Congress. One of the principal purposes of Congress in setting up the trade-agreements procedure was to free Congress from the burden of attempting the impossible task of passing on each minute detail involved in keeping the tariff adjusted to current needs. The Congress had the same purpose in mind in the enactment of the flexible provisions of the Tariff Acts of 1922 and 1930 and action taken by the President under that authority is not made subject to subsequent congressional approval. Similarly, in the case of the numerous administrative agencies such as the Interstate Commerce Commission which Congress has set up to administer specified policies, their rules, regulations, and actions are not made subject to subsequent congressional approval. To do so would simply render Congress ineffectual to do its real job of establishing policy through legislation.

SIGNIFICANCE OF REAFFIRMING THIS POLICY

The committee is impressed with the profound significance attaching to the enactment of this legislation at this time, as set forth in the following excerpt from the testimony of Secretary Hull:

"We are now in a period when, as a result of the new and widespread wars, the need for means of prompt and effective action on the part of the Government in the promotion and defense of our foreign commerce is even more imperative than it has been hitherto. We are in a period in which our economic policies and action may have a determining influence upon the developments, which, after the cessation of hostilities, will shape the future world.

"If we were now to abandon the program, we would reduce to practically nothing the efficacy of the existing trade agreements as a means of safeguarding our exports from the inroads of wartime restrictions. The need for keeping alive the principles which underlie the trade-agreements program is crucial now, during the war emergency, and will be of even more decisive importance after the war. Even a temporary abandonment of the program now would be construed everywhere as its permanent abandonment. Unless we continue to maintain our position of leadership in the promotion of liberal trade policies, unless we continue to urge upon others the need of adopting such policies as the basis of post-war economic reconstruction, the future will be dark, indeed. The triumph or defeat of liberal trade policies after the war will, in large measure, be determined by the commitments which the nations will assume between now and the peace conference.

"At the termination of hostilities there will be an unprecedented need throughout the world for vastly increased production of useful goods of every kind. Only if this vital need is met, can our country and all countries hope for full employment and higher living standards. But production, employment, and living standards cannot be restored and expanded unless the nations decide from the outset to direct their policies toward as rapid as possible a reestablishment of mutually beneficial international trade. Otherwise, the economic life and the political stability of the world after this war will rest upon even more precarious foundations than those upon which they rested after the last war.

"Had the nations of the world, including our own, followed at that time commercial policies conducive to the fullest practicable development of mutually beneficial international commerce, world trade would undoubtedly have expanded on a healthy basis far beyond the limits actually attained, and a foundation would have been laid for stable economic prosperity for all nations. Instead, the nations sought escape from their difficulties in constantly creating greater barriers to trade, the effects of which were obscured for a time by the unhealthy stimulation of reckless borrowing and lending of the 1920's. But the ravages of the great depression, the years of only partial recovery which followed, and finally the supreme tragedy of the new wars have brought retribution for the mistakes and follies of the first decade after the World War.

"Must all this be repeated again, perhaps in an even more acute form, after the present war? That may well be the case if we now turn our backs upon the policy which, under our leadership, has offered in recent years the only hope of promoting trade among nations in such a way as to rebuild the foundations of economic prosperity within nations and of stable peace among nations. Were

we to do this we would inflict upon ourselves and upon the world an incalculable injury.

"After the World War, through the policies which we then pursued we helped to create a situation in which the entire economic structure of the world rested upon shifting sands, with nothing in sight but inescapable disaster. The policy which we have pursued for the past 6 years, if we only have the wisdom to continue it, will enable us to place the whole weight of our country's influence behind a determined effort—in which, I am sure, we shall have the cooperation of other nations—to rebuild international economic relationships in such a way that our Nation and all nations can prosper and be at peace."

Mr. NORRIS. Mr. President, following the report of the Committee on Finance I ask unanimous consent to have inserted in the RECORD the letter from the Attorney General, printed in the report, enclosing the memorandum which he sent to the committee, and which will be found on page 729 of the hearings.

The PRESIDING OFFICER. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 4, 1940.

The honorable the SECRETARY OF STATE.

MY DEAR MR. SECRETARY: Complying with your informal request, I am transmitting herewith a memorandum prepared in this Department concerning the constitutionality of the Foreign Trade Agreement Act.

It sets forth the authorities and principles which sustain a strong personal conviction on my part that there is no constitutional objection to this act, and that agreements executed under it are constitutionally unassailable.

Respectfully,

ROBERT H. JACKSON,
Attorney General.

[Enclosure No. 487894 from Department of Justice]

FEBRUARY 29, 1940.

MEMORANDUM RE CONSTITUTIONALITY OF THE TRADE AGREEMENTS ACT

The administrative provisions of the Foreign Trade Agreements Act combine two basic principles, namely, (1) executive bargaining with foreign nations with respect to foreign commerce, and (2) flexible adjustments of tariff rates by the Executive.

Executive bargaining with foreign nations with respect to foreign commerce, conducted pursuant to acts of the Congress, is as old as the Government and has been used extensively and effectively during the entire period of our national existence. In fact, in the early days of the Government it was probably the most effective instrument resorted to in connection with the regulation of foreign commerce. This resulted naturally from the conditions existing and from the measures adopted by the Congress to meet those conditions.

To understand fully the conditions confronting the United States in its early history it must be remembered that so long as the Colonies remained under the dominion of Great Britain they were permitted to have no commerce except such as the British Government considered to be in its interests. No manufacturing whatever was allowed in the Colonies. The attitude of the British Government to American manufacturing was truly expressed in Lord Chatham's declaration that he would not permit the colonists to make even a hobnail or horseshoe for themselves. So effectively was this country prevented from developing manufacturing that John Dickinson, of Pennsylvania, could truthfully say in 1777: "We are tillers of the earth from Nova Scotia to West Florida."

After the Colonies gained their independence the British Government continued its policy of attempting to stifle and prevent the development of the commerce of the United States. Harsh and burdensome discriminating practices against our commerce were adopted. England at that time was the strongest nation commercially in the world, and, probably due to her example and influence, other commercial nations, particularly France and Spain, also began to discriminate against our commerce.

As a result of these discriminations the Congress passed numerous retaliatory acts imposing heavy duties and restrictions upon the commerce of those nations which discriminated against the commerce of the United States. Many of those acts vested in the President the power and discretion to either suspend or make applicable the restrictions imposed by the acts with respect to any country dependent upon whether it discontinued or refused to discontinue its discrimination against the commerce of the United States. The nature of these acts and the power and discretion vested in the President thereunder may be illustrated by the following examples:

The act of June 4, 1794 (ch. 41, 1 Stat. 372), empowered the President, "whenever, in his opinion, the public safety shall so require," to lay an embargo upon all commerce with the United States, and to continue or revoke such embargoes whenever he should think proper.

The act of June 13, 1798 (ch. 53, 1 Stat. 565), suspended all commercial intercourse between the United States and France and its dependencies, with the provision that if the Government of France should "clearly disavow" and should "refrain from the aggressions, depredations, and hostilities" against the vessels and property of citizens of the United States and against their national rights and sovereignty and should "acknowledge the just claims of the United States to be considered in all respects neutral," then the President, "being well ascertained of the premises," was authorized to discontinue the prohibitions and restraints imposed by the act and to make proclamation thereof.

The act of February 9, 1799 (ch. 2, 1 Stat. 613), further suspended the commercial intercourse with France and its dependencies with the provision:

"That at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interest of the United States, by his order, to remit and discontinue, for the time being, the restraints and prohibitions aforesaid * * *; and also to revoke such order, whenever in his opinion the interest of the United States shall require; and he shall be, and hereby is, authorized to make proclamation thereof accordingly."

The act of February 27, 1800 (ch. 10, 2 Stat. 7), also further suspended commercial intercourse between the United States and France, provided:

"That at any time after the passing of this act, it shall be lawful for the President of the United States, by his order, to remit and discontinue for the time being, whenever he shall deem it expedient, and for the interest of the United States, all or any of the restrains and prohibitions imposed by this act * * *; and also it shall be lawful for the President of the United States, whenever he shall afterward deem it expedient, to revoke such order, and hereby to reestablish such restraints and prohibitions. And the President of the United States shall be, and he is hereby, authorized to make proclamation thereof accordingly."

The act of April 18, 1806 (ch. 29, 2 Stat. 379), prohibited the importation from Great Britain or Ireland of certain articles of merchandise therein enumerated from and after the 10th day of November 1806. The act of December 19, 1806 (ch. 1, 2 Stat. 411), suspended the operation of the former act until July 1, 1807, and section 3 of the later act provided:

"That the President of the United States be, and he is hereby, authorized further to suspend the operation of the aforesaid act, if in his judgment the public interest should require it: *Provided*, That such suspension shall not extend beyond the second Monday in December next."

The act of March 1, 1809 (ch. 24, 2 Stat. 528), again prohibited all commercial intercourse between the United States and Great Britain and France and their dependencies. Section 11 of that act provided:

"That the President of the United States be, and he is hereby, authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing."

The provisions of the foregoing act were terminated by the act of June 28, 1809 (ch. 9, 2 Stat. 550), as of the end of the next session of Congress, but section 4 of the act of May 1, 1810 (ch. 39, 2 Stat. 605), provided that in case either Great Britain or France should before the 3d day of March thereafter so revoke or modify her edicts as to cease to violate the neutral commerce of the United States, the President should declare such fact by proclamation, and if the other nations should not within 3 months thereafter so revoke or modify her edicts in like manner then the provisions of the act of June 28, 1809, should be revived and have full force and effect against the nation thus refusing or neglecting to revoke or modify her edicts. To like effect, insofar as it related to Great Britain, was the act of March 2, 1811 (ch. 29, 2 Stat. 651). The validity of this act was sustained by the Supreme Court in *The Brig Aurora* (7 Cranch. 382).

The act of April 27, 1816 (ch. 107, 3 Stat. 310), provided a schedule of duties upon certain goods imported into the United States. Section 3 of the act provided that an additional 10 percent should be added to the rate of duties specified and imposed in respect to all goods imported in foreign vessels other than such as are entitled by treaty or by any act or acts of Congress to be entered in the ports of the United States on the payment of the same duties as are paid on goods, wares, merchandise imported in ships or vessels of the United States. The act of April 18, 1818 (ch. 70, 3 Stat. 432), closed all ports of the United States to vessels of Great Britain coming or arriving from ports closed to American vessels. The act of March 1, 1823 (ch. 22, 3 Stat. 740), suspended the provisions of the act of April 18, 1818, as to certain British ports therein enumerated, but provided that until proof shall have been given the President satisfactory to him that vessels of the United States admitted into the enumerated British ports were required to pay no higher tonnage or imposts duties than those exacted from British vessels on like goods, British vessels coming from the ports enumerated should pay the additional 10 percent tonnage duties provided by the act of April 27, 1816.

The act of January 7, 1824 (ch. 4, 4 Stat. 2), provided that—

"* * * upon satisfactory evidence being given to the President of the United States by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied within the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon merchandise, the produce or manufacture thereof, imported in the same, the President is hereby authorized to issue his proclamation, declaring that

the foreign discriminating duties of tonnage and imposts within the United States, are and shall be, suspended and discontinued, so far as respects the vessels of the said nation, and the merchandise of its produce or manufacture, imported into the United States in the same; the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and merchandise as aforesaid, thereon laden, shall be continued, and no longer."

The provisions of section 4 of the act of January 7, 1824, were reenacted in substantially the same language in section 1 of the act of May 24, 1828 (ch. 3, 4 Stat. 308), and were later preserved in section 4228 of the Revised Statutes.

Of similar import was the act of May 29, 1830 (ch. 207, 4 Stat. 419), as relating to commerce with the British ports in the West Indies, on the continent of South America, the Bahama Islands, and other islands named.

The act of May 31, 1830 (ch. 219, 4 Stat. 425), repealed all acts imposing tonnage duties upon vessels of foreign nations, provided the President should be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, had been abolished. The provisions of this act were preserved in section 4219 of the Revised Statutes.

Other acts of similar character to those above enumerated are the act of May 25, 1832 (ch. 104, 4 Stat. 517), the act of July 13, 1832 (ch. 207, 4 Stat. 578), the act of June 30, 1834 (ch. 170, 4 Stat. 741), the act of March 2, 1837 (ch. 19, 4 Stat. 152), the act of June 1, 1842 (ch. 32, 5 Stat. 489), and the act of March 3, 1845 (ch. 66, 5 Stat. 748).

Unquestionably the Congress, in passing the above-mentioned acts, intended that the President should endeavor, through negotiations and agreements with foreign governments, to effect a discontinuance of the discriminations against the commerce of the United States. The Congress faced a difficult situation. The discriminating practices against our commerce being engaged in by foreign nations, ruinous to the country, were becoming more and more burdensome. Something had to be done. To induce foreign nations to discontinue these discriminatory practices, however, required meticulous negotiations, and the Congress as a legislative body could not carry on such negotiations. It did the only thing it could do. It entrusted the conduct of these negotiations to the President. But the President, as Congress realized, could not carry on such negotiations to a successful conclusion without some basis for bargaining—some power or authority to offer to the foreign nations a quid pro quo for their agreement to discontinue the discriminations.

The Congress met the situation by passing the acts referred to, placing heavy burdens and restrictions on the commerce of foreign nations with power in the Executive to suspend or continue them. It thereby gave to the Executive the means with which to trade and barter. The Executive had something to offer a foreign nation in exchange for its agreement to discontinue its discriminatory practices.

Negotiations naturally and necessarily followed the passage of these acts, and as these negotiations led from time to time to the conclusion of an agreement under which a foreign nation discontinued its discriminating practices this fact was announced by proclamation of the President.

The value and effectiveness of this method of dealing with foreign nations in connection with commercial relations was forcibly expressed by President Jackson in his annual message to the Congress December 6, 1830. In this connection he said:

"An arrangement has been effected with Great Britain in relation to the trade between the United States and her West India and North American colonies which has settled a question that has for years afforded matter for contention and almost uninterruped discussion, and has been the subject of no less than six negotiations, in a manner which promises results highly favorable to the parties.

* * * * * * *

"This arrangement secures to the United States every advantage asked by them, and which the state of the negotiation allowed us to insist upon. The trade will be placed upon a footing decidedly more favorable to this country than any on which it ever stood, and our commerce and navigation will enjoy in the colonial ports of Great Britain every privilege allowed to other nations."

The message in question contains a somewhat extensive discussion of the questions involved in the negotiation with Great Britain. That arrangement, which was regarded by both Jackson and his Secretary of State, Martin Van Buren, as a real achievement of diplomacy, did not rest on any treaty. It was effected by unilateral legislative and executive acts on each part, namely, the British statute of July 5, 1825, the order in council of July 17, 1826, the United States act of May 29, 1830, the Presidential proclamation of October 5, 1830, and the British order in council of November 5, 1830. The printed diplomatic correspondence and other papers regarding this arrangement are quite voluminous.

Mr. Van Buren's comments on these acts were:

"The effect of these various enactments has been to vest in the President of the United States the power of granting to any foreign nation willing to reciprocate the same benefit to us, the privilege of importing into, or exporting from, our ports, in its own vessels, the produce of its own soil or manufacture, or of the soil or manufacture of any other country, upon equal terms with those imported or exported in vessels of the United States."

Following the long-established practice of dealing with matters pertaining to commercial intercourse with foreign nations through executive agreements, this Government on November 23, 1863, concluded an "informal convention" with France relating to the exportation of tobacco. A similar agreement was concluded with Austria-Hungary December 24, 1863. (Malloy, vol. 1, p. 38.)

Under section 4228 of the Revised Statutes an agreement was entered into with Spain February 13, 1884, providing for reciprocal abolition of certain discriminating duties on goods imported into the United States from Cuba and Puerto Rico and on American goods imported into those islands. The agreement was brought into force by a proclamation of President Arthur dated February 14, 1884 (22 Stat. 835). This proclamation was revoked by proclamation of President Cleveland dated October 13, 1886 (24 Stat. 1028), upon the finding by the President that the agreement was being persistently violated by the Spanish Government. Further agreements with Spain under section 4228 of the Revised Statutes were entered into on October 27, 1886, September 21, 1887, December 21, 1887, and May 26, 1888.

The Tariff Act of 1890 (ch. 1244, 26 Stat. 567), entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes" provided for the imposition of penalty duties upon imports from countries discriminating in their tariff treatment against goods from the United States. Section 3 of the act provided:

"That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the 1st day of January 1892, whenever, and so often as the President shall be satisfied that the government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugars, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country as follows, namely."

(Here follows a schedule of duties upon certain enumerated articles to be imposed under the conditions named in lieu of the duties on such articles prescribed in the tariff schedules of the act.)

Under this act a comprehensive program of tariff bargaining by and through Executive trade agreement was inaugurated, and trade agreements with foreign nations were concluded as follows: Brazil, June 4, 1891 (proclaimed Feb. 5, 1892, 26 Stat. 1563); Dominican Republic, June 4, 1891 (proclaimed, Aug. 1, 1891, 27 Stat. 966); Spain, June 16, 1891 (proclaimed, July 31, 1891, 27 Stat. 932); Salvador, December 30, 1891 (proclaimed, Dec. 31, 1891, 27 Stat. 996); Germany, January 30, 1891 (proclaimed, Feb. 1, 1891, 27 Stat. 1004); Great Britain, February 1, 1892 (proclaimed, Feb. 1, 1892, 27 Stat. 999); Nicaragua, March 11, 1892 (proclaimed, Mar. 12, 1892, 27 Stat. 1009); France, April 12, 1892 (informal); Honduras, April 29, 1892 (proclaimed, Apr. 30, 1892, 27 Stat. 1023); Austria-Hungary, May 25, 1892 (proclaimed, May 26, 1892, 27 Stat. 1026); Guatemala, December 30, 1891 (proclaimed, May 18, 1892, 27 Stat. 1025); a second agreement with Salvador (proclaimed, Dec. 27, 1892, 27 Stat. 1056).

Under these agreements the contracting governments agreed to admit certain imports free or at substantially reduced tariff rates fixed therein.

During the time these agreements were being entered into penalty duties were imposed under the act on imports from Colombia, Haiti, and Venezuela, after those countries had failed to respond to requests of this country to negotiate agreements. (See proclamations, Nos. 18, 19, 20, 27 Stat. 1010, 1012, and 1013.)

Section 3 of the Tariff Act of 1897 (ch. 11, 30 Stat. 151, 203), provided:

"That for the purpose of equalizing the trade of the United States with foreign countries, and their colonies, producing and exporting to this country the following articles: Argols, or crude tartar, or wine lees, crude; brandies, or other spirits manufactured or distilled from grain or other materials; champagne and all other sparkling wines, still wines, and vermouth; paintings and statuary; or any of them, the President be, and he is hereby, authorized, as soon as may be after the passage of this act, and from time to time thereafter, to enter into negotiations with the governments of those countries exporting to the United States the above-mentioned articles, or any of them, with a view to the arrangement of commercial agreements in which reciprocal and equivalent concessions may be secured in favor of the products and manufactures of the United States; and whenever the government of any country, or colony, producing and exporting to the United States the above-mentioned articles, or any of them, shall enter into a commercial agreement with the United States, or make concessions in favor of the products, or manufactures thereof, which, in the judgment of the President, shall be reciprocal and equivalent, he shall be, and he is hereby, authorized and empowered to suspend, during the time of such agreement or concession, by proclamation to that effect, the imposition and collection of the duties mentioned in this act, on such article or articles so exported to the United States from such country or colony, and thereupon and thereafter the duties levied,

collected, and paid upon such article or articles shall be as follows, namely:

" 'Argols, or crude tartar, or wine lees, crude, 5 percent ad valorem.

" 'Brandies, or other spirits manufactured or distilled from grain or other materials, $1.75 per proof-gallon.' "

Under this act the President concluded executive trade agreements with France, Portugal, Germany, Italy, Switzerland, Bulgaria, the Netherlands, Austria-Hungary, and Great Britain. These agreements were all brought into force by proclamation of the President.

The Tariff Act of 1909 (ch. 6, 36 Stat. 11) provided two schedules of duties, a minimum and a maximum, and authorized the President, when he should be satisfied "in view of the character of the concessions granted by the minimum tariff of the United States, that the government of any foreign country imposes no terms or restrictions, either in the way of tariff rates or provisions, trade or other regulations, charges, exactions, or in any other manner, directly or indirectly, upon the importation into or the sale in such foreign country of any agricultural, manufactured, or other product of the United States, which unduly discriminate against the United States or the product thereof, and that such foreign country pays no export bounty or imposes no export duty or prohibition upon the exportation of any article to the United States which unduly discriminates against the United States or the products thereof, and that such foreign country accords to the agricultural, manufactured, or other products of the United States treatment which is reciprocal and equivalent," to so declare by proclamation, and thereafter articles imported into the United States from such foreign country should be admitted under the term of the minimum tariff prescribed. The act further provided that when the President was satisfied that the condition which led to the issuance of the proclamation no longer existed he should by proclamation declare that 90 days thereafter the provisions of the maximum tariff should be applied to importations from the foreign country involved. One hundred and thirty-four proclamations were issued under this act and these proclamations practically included the entire commercial world, making applicable the minimum tariff prescribed.

Section IV of the Tariff Act of 1913 (ch. 16, 38 Stat. 114, 192) authorized and empowered the President to negotiate reciprocity agreements with foreign countries, such agreements to be submitted to the Congress for ratification or rejection. The Revenue Act of 1916 (ch. 463, 39 Stat. 756) authorized the President to prohibit the importation of foreign articles when the same or other domestic articles were refused entry into foreign countries. The act also authorized the President to change, modify, revoke, or renew such proclamation in his discretion.

The Tariff Act of 1922 (42 Stat. 858) contained a flexible-tariff provision in all respects similar in principle to the flexible-tariff provisions of the Foreign Trade Agreements Act. Section 315 (a) of the 1922 act provides, in part:

"That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this act intended, whenever the President, upon investigation of the differences in costs of production of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties fixed in this act do not equalize the said differences in costs of production in the United States and the principal competing country he shall, by such investigation, ascertain said differences and determine and proclaim the changes in classifications or increases or decreases in any rate of duty provided in this act shown by said ascertained differences in such costs of production necessary to equalize the same. Thirty days after the date of such proclamation or proclamations such changes in classification shall take effect, and such increased or decreased duties shall be levied, collected, and paid on such articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, and the islands of Guam and Tutuila): *Provided*, That the total increase or decrease of such rates of duty shall not exceed 50 percent of the rates specified in title I of this act or in any amendatory act."

The act also provided that in extreme cases the President could exclude articles of commerce from coming into the United States. Under this act President Coolidge issued 30 proclamations, of which 26 increased and 4 decreased duties on certain classes of articles imported into the United States, and President Hoover issued 32 proclamations of which 16 increased duties and 16 decreased duties.

The provisions of section 315 of the Tariff Act of 1922 were substantially reenacted as section 336 of the Tariff Act of 1930 (ch. 497, 46 Stat. 590, 591) (of which act the Foreign Trade Agreements Act is an amendment), and Executive adjustment of tariff rates thereunder have continued.

The two principles combined in the Foreign Trade Agreements Act have been long and effectively used in connection with the regulation of foreign commerce. Also both have been fully sanctioned by the Supreme Court.

In *Field* v. *Clark* (143 U. S. 649) the constitutionality of the Tariff Act of 1890 was before the Court. Section 3 of that act granted to the President the power to engage in tariff bargaining and in connection therewith to enter into Executive trade agreements with foreign nations—a power similar in all respects to the first power granted to the President in the Foreign Trade Agreements Act. The constitutionality of the act was attacked upon two grounds—(1) that it contained an unconstitutional delegation of legislative power to the President, and (2) that it delegated to the President the power to make treaties in violation of the treaty-making power of the Constitution. After an extensive review of the history of congressional delegations of power to the President in connection with the regulation of commerce, the Court said (pp. 690–693):

"It would seem to be unnecessary to make further reference to acts of Congress to show that the authority conferred upon the President by the third section of the act of October 1, 1890, is not an entirely new feature in the legislation of Congress, but has the sanction of many precedents in legislation. While some of these precedents are stronger than others, in their application to the case before us they all show that, in the judgment of the legislative branch of the Government, it is often desirable, if not essential for the protection of the interests of our people, against the unfriendly or discriminating regulations established by foreign governments, in the interests of their people, to invest the President with large discretion in matters arising out of the execution of statutes relating to trade and commerce with other nations. If the decision in the case of the brig *Aurora* had never been rendered, the practical construction of the Constitution, as given by so many acts of Congress, and embracing almost the entire period of our national existence, should not be overruled, unless upon a conviction that such legislation was clearly incompatible with the supreme law of the land. (*Stuart* v. *Laird*, 1 Cranch 299, 309; *Martin* v. *Hunter*, 1 Wheat. 304, 351; *Cooley* v. *Port Wardens*, 12 How. 299, 315; *Lithographic Co.* v. *Sarony*, 111 U. S. 53, 57; *The Laura*, 114 U. S. 411, 416.)

"The authority given to the President by the act of June 4, 1794, to lay an embargo on all ships and vessels in the ports of the United States 'whenever, in his opinion, the public safety shall so require,' and under regulations to be continued or revoked 'whenever he shall think proper'; by the act of February 9, 1799, to remit and discontinue, for the time being, the restraints and prohibitions which Congress had prescribed with respect to commercial intercourse with the French Republic, 'if he shall deem it expedient and consistent with the interest of the United States,' and 'to revoke such order whenever, in his opinion, the interest of the United States shall require'; by the act of December 19, 1806, to suspend, for a named time, the operation of the nonimportation act of the same year 'if, in his judgment, the public interest should require it'; by the act of May 1, 1810, to revive a former act, as to Great Britain or France, if either country had not by a named day so revoked or modified its edicts as not 'to violate the neutral commerce of the United States'; by the act of March 3, 1815, and May 31, 1830, to declare the repeal, as to any foreign nation, of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, when he should be 'satisfied' that the discriminating duties of such foreign nations, 'so far as they operate to the disadvantage of the United States,' had been abolished; by the act of March 6, 1866, to declare the provisions of the act forbidding the importation into this country of neat cattle and the hides of neat cattle to be inoperative 'whenever, in his judgment,' their importation 'may be made without danger of the introduction or spread of contagious or infectious disease among the cattle of the United States'; must be regarded as unwarranted by the Constitution if the contention of the appellants in respect to the third section of the act of October 1, 1890, be sustained.

"That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution. The act of October 1, 1890, in the particular under consideration, is not inconsistent with that principle. It does not, in any real sense, invest the President with the power of legislation. For the purpose of securing reciprocal trade with countries producing and exporting sugar, molasses, coffee, tea, and hides Congress itself determined that the provisions of the act of October 1, 1890, permitting the free introduction of such articles should be suspended as to any country producing and exporting them that imposed exactions and duties on the agricultural and other products of the United States, which the President deemed—that is, which he found to be—reciprocally unequal and unreasonable. Congress itself prescribed in advance the duties to be levied, collected, and paid on sugar, molasses, coffee, tea, or hides produced by or exported from such designated country while the suspension lasted. Nothing involving the expediency or the just operation of such legislation was left to the determination of the President.

"The words 'he may deem' in the third section, of course, implied that the President would examine the commercial regulations of other countries producing and exporting sugar, molasses, coffee, tea, and hides, and form a judgment as to whether they were reciprocally equal and reasonable, or the contrary, in their effect upon American products. But when he ascertained the fact that duties and exactions reciprocally unequal and unreasonable were imposed upon the agricultural or other products of the United States by a country producing and exporting sugar, molasses, coffee, tea, or hides, it became his duty to issue a proclamation declaring the suspension as to that country which Congress had determined should occur. He had no discretion in the premises except in respect to the duration of the suspension so ordered. But that related only to the enforcement of the policy established by Congress. As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation in obedience to the legislative will he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was

simply in execution of the act of Congress. It was not the making of law. He was the mere agent of the lawmaking department to ascertain and declare the event upon which its expressed will was to take effect. It was a part of the law itself as it left the hands of Congress that the provisions, full and complete in themselves, permitting the free introduction of sugar, molasses, coffee, tea, and hides from particular countries, should be suspended in a given contingency, and that in case of such suspensions certain duties should be imposed.

* * * * * * *

"The court is of opinion that the third section of the act of October 1, 1890, is not liable to the objection that it transfers legislative and treaty-making power to the President."

In the *Union Bridge Co.* v. *United States* (204 U. S. 364), the Court quoted extensively and with approval from *Field* v. *Clark*. Other cases in which the courts have sustained trade agreements concluded by the President under powers granted him by the Tariff Acts of 1890 and 1897 are *Downs* v. *United States* (187 U. S. 496); *Nicholas* v. *United States* (122 Fed. 892); *United States* v. *Tartar Chemical Co.* (127 Fed. 944); *United States* v. *Julius Wile Bros. & Co.* (130 Fed. 331); *United States* v. *Luyties* (130 Fed. 333); *Migliavacca Wine Co.* v. *United States* (148 Fed. 142); *La Manna, Azema & Garnan* v. *United States* (144 Fed. 683); and *Mihalovitch, Fletcher & Co.* v. *United States*, 160 Fed. 988.

The constitutionality of the principle of flexible adjustments of tariff rates by the Executive was before the Supreme Court in *Hampton & Co.* v. *United States* (276 U. S. 394). That case involved the constitutionality of section 315 of the Tariff Act of 1922, which was substantially the same as the flexible tariff provisions of the Foreign Trade Agreements Act. In holding the 1922 statute constitutional, the Court said (pp. 404–410):

"First: It seems clear what Congress intended by 315. Its plan was to secure by law the imposition of customs duties on articles of imported merchandise which should equal the difference between the cost of producing in a foreign country the articles in question and laying them down for sale in the United States, and the cost of producing and selling like or similar articles in the United States, so that the duties not only secure revenue but at the same time enable domestic producers to compete on terms of equality with foreign producers in the markets of the United States. It may be that it is difficult to fix with exactness this difference, but the difference which is sought in the statute is perfectly clear and perfectly intelligible. Because of the difficulty in practically determining what that difference is, Congress seems to have doubted that the information in its possession was such as to enable it to make the adjustment accurately, and also to have apprehended that with changing conditions the difference might vary in such a way that some readjustments would be necessary to give effect to the principle on which the statute proceeds. To avoid such difficulties, Congress adopted in 315 the method of describing with clearness what its policy and plan was and then authorizing a member of the executive branch to carry out this policy and plan, and to find the changing difference from time to time, and to make the adjustments necessary to conform the duties to the standard underlying that policy and plan. As it was a matter of great importance, it concluded to give by statute to the President, the Chief of the executive branch, the function of determining the difference as it might vary. He was provided with a body of investigators who were to assist him in obtaining needed data and ascertaining the facts justifying readjustments.

"There was no specific provision by which action by the President might be invoked under this act, but it was presumed that the President would through this body of advisers keep himself advised of the necessity for investigation or change, and then would proceed to pursue his duties under the act and reach such conclusion as he might find justified by the investigation, and proclaim the same if necessary.

"The Tariff Commission does not itself fix duties, but before the President reaches a conclusion on the subject of investigation, the Tariff Commission must make an investigation and in doing so must give notice to all parties interested and an opportunity to adduce evidence and to be heard.

"The well-known maxim 'Delegatus non potest delgari,' applicable to the law of agency in the general and common law, is well understood and has had wider application in the construction of our Federal and State Constitutions than it has in private law. The Federal Constitution and State constitutions of this country divide the governmental power into three branches. The first is the legislative, the second is the executive, and the third is the judicial, and the rule is that in the actual administration of the government, Congress or the legislature should exercise the legislative power; the President or the State executive, the Governor, the executive power; and the courts or the judiciary the judicial power; and in carrying out that constitutional division into three branches, it is a breach of the national fundamental law if Congress gives up its legislative power and transfers it to the President, or to the judicial branch, or if by law it attempts to invest itself or its members with either executive power or judicial power. This is not to say that the three branches are not coordinate parts of one government and that each in the field of its duties may not invoke the action of the two other branches, insofar as the action invoked shall not be an assumption of the constitutional field of action of another branch. In determining what it may do in seeking assistance from another branch, the extent and character of that assistance must be fixed according to common sense and the inherent necessities of the governmental coordination.

"The field of Congress involves all and many varieties of legislative action, and Congress has found it frequently necessary to use officers of the executive branch, within defined limits, to secure the exact effect intended by its acts of legislation, by vesting discretion in such officers to make public regulations interpreting a statute and directing the details of its execution, even to the extent of providing for penalizing a breach of such regulations (*United States* v. *Grimaud*, 220 U. S. 506, 518; *Union Bridge Co.* v. *United States*, 204 U. S. 364; *Buttfield* v. *Stranahan*, 192 U. S. 470; *In re Kollock*, 165 U. S. 526; *Oceanic Navigation Co.* v. *Stranahan*, 214 U. S. 320).

"Congress may feel itself unable conveniently to determine exactly when its exercise of the legislative power should become effective, because dependent on future conditions, and it may leave the determination of such time to the decision of an Executive, or, as often happens in matters of State legislation, it may be left to a popular vote of the residents of a district to be affected by the legislation. While in a sense one may say that such residents are exercising legislative power, it is not an exact statement, because the power has already been exercised legislatively by the body vested with that power under the constitution, the condition of its legislation going into effect being made dependent by the legislature on the expression of the voters of a certain district. As Judge Ranney, of the Ohio Supreme Court, in *Cincinnati, Wilmington and Zanesville Railroad Co.* v. *Commissioner* (1 Ohio Sta. 77, 88), said in such a case:

" 'The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made.' See also *Moers* v. *Reading* (21 Penn. St. 188, 202); *Locke's Appeal* (72 Penn. St. 491, 498).

"Again, one of the great functions conferred on Congress by the Federal Constitution is the regulation of interstate commerce and rates to be exacted by interstate carriers for the passenger and merchandise traffic. The rates to be fixed are myriad. If Congress were to be required to fix every rate, it would be impossible to exercise the power at all. Therefore, common sense requires that in the fixing of such rates, Congress may provide a commission, as it does, called the Interstate Commerce Commission, to fix those rates, after hearing evidence and argument concerning them from interested parties, all in accord with a general rule that Congress first lays down that rates shall be just and reasonable considering the service given and not discriminatory. As said by this Court in *Interstate Commerce Commission* v. *Goodrich Transit Co.* (224 U. S. 194, 214), 'The Congress may not delegate its purely legislative power to a commission, but, having laid down the general rules of action under which a commission shall proceed, it may require of that commission the application of such rules to particular situations and the investigation of facts, with a view to making orders in a particular matter within the rules laid down by the Congress.'

"The principle upon which such a power is upheld in State legislation as to fixing railway rates is admirably stated by Judge Mitchell, in the case of *State* v. *Chicago, Milwaukee & St. Paul Railway Co.* (38 Minn. 281, 298, to 302). The learned judge says on page 301:

" 'If such a power is to be exercised at all, it can only be satisfactorily done by a board or commission, constantly in session, whose time is exclusively given to the subject, and who, after investigation of the facts, can fix rates with reference to the peculiar circumstances of each road, and each particular kind of business, and who can change or modify these rates to suit the ever-varying conditions of traffic. * * * Our legislature has gone a step further than most others, and vested our commission with full power to determine what rates are equal and reasonable in each patricular case. Whether this was wise or not is not for us to say; but in doing so we cannot see that they have transcended their constitutional authority. They have not delegated to the commission any authority or discretion as to what the law shall be—which would not be allowable—but have merely conferred upon it an authority and discretion, to be exercised in the execution of the law, and under and in pursuance of it, which is entirely permissible. The legislature itself has passed upon the expediency of the law, and what it shall be. The commission is entrusted with no authority or discretion upon these questions.' See also the language of Justices Miller and Bradley in the same case in this Court (134 U. S. 418, 459, 461, 464).

"It is conceded by counsel that Congress may use executive officers in the application and enforcement of a policy declared in law by Congress, and authorize such officers in the application of the congressional declaration to enforce it by regulation equivalent to law. But it is said that this never has been permitted to be done where Congress has exercised the power to levy taxes and fix customs duties. The authorities make no such distinction. The same principle that permits Congress to exercise its rate making power in interstate commerce, by declaring the rule which shall prevail in the legislative fixing of rates, and enables it to remit to a rate-making body created in accordance with its provisions the fixing of such rates, justifies a similar provision for the fixing of customs duties on imported merchandise. If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of legislative power. If it is thought wise to vary the customs duties according

to changing conditions of production at home and abroad, it may authorize the Chief Executive to carry out this purpose, with the advisory assistance of a tariff commission appointed under congressional authority. This conclusion is amply sustained by a case in which there was no advisory commission furnished the President—a case to which this Court gave the fullest consideration nearly 40 years ago.

Speaking on this same subject in *Norwegian Nitrogen Co.* v. *United States* (228 U. S. 294, 308), the Supreme Court said:

"The powers of the President under the flexible tariff provisions of the act of 1922 differ in degree rather than in kind from powers that have long been his."

In 1934 conditions affecting this country's foreign commerce were comparable to those affecting it in the early days of the Government. Again that commerce was burdened and harassed on every hand by unfair and discriminatory practices of foreign countries. The need for immediate and effective measures to remedy these evils was urgent. Faced with this situation the Congress resorted to those measures which had proven effective under comparable circumstances in the past.

The Congress had the constitutional right to do this. In addition to the long history of the use of these measures the Supreme Court had expressly approved their constitutionality. Besides, that Court has long held that the Congress in the exercise of a power vested in it by the Constitution may exercise a wide discretion in the choice of measures and may employ any appropriate means available. In *McCulloch* v. *Maryland* (4 Wheat. 316), Mr. Chief Justice Marshall, speaking for the Court, said:

"A constitution, to contain an accurate detail of all the subdivisions of which its great power will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. That this idea was entertained by the framers of the American Constitution is not only to be inferred from the nature of the instrument, but from the language (p. 407).

"* * * a government, entrusted with such ample powers, on the due execution of which the happiness and prosperity of the Nation so vitally depends, must also be entrusted with ample means for their execution. The power being given, it is the interest of the Nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution, by withholding the most appropriate means. * * * that instrument does not profess to enumerate the means by which the powers it confers may be executed * * * (p. 408).

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means * * * (p. 409).

"To employ the means necessary to an end is generally understood as employing any means calculated to produce the end * * * (p. 413).

"It must have been the intention of those who gave these powers, to insure, so far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a Constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which Government should, in all future time, execute its powers, would have been to change, entirely, the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone, without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances. If we apply this principle of construction to any of the powers of the Government, we shall find it so pernicious in its operation that we shall be compelled to discard it (p. 415)."

The provisions of the Foreign Trade Agreement Act here considered are quite different from the statutory provisions considered by the Supreme Court in *Panama Refining Co.* v. *Ryan et al.* (293 U. S. 388). In that case the Court dealt with section 9 (c) of the National Industrial Recovery Act (48 Stat. 195, 200), relating to the transportation of "hot oil," and held this statute to be unconstitutional because the Congress had declared no policy, had established no standard, and had laid down no rule, thus leaving the statute with no "requirement, no definition of circumstances and conditions in which the transportation is to be allowed."

In the *Panama Refining Co. case,* however, Mr. Chief Justice Hughes, speaking for the Court, said (p. 421):

"Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the National Legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its functions in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. Without capacity to give authorizations of that sort we should have the anomaly of a legislative power, which in many circumstances, calling for its exertion would be but a futility."

Other decisions of the Supreme Court supporting the rule thus stated by Mr. Chief Justice Hughes will be found in *St. Louis & Iron Mountain Ry. Co.* v. *Taylor* (210 U. S. 281); *Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Railway Co.* (284 U. S. 370), both of the above decisions sustaining delegation of rate-making power to the Interstate Commerce Commission; *Buttfield* v. *Stranahan* (192 U. S. 470), sustaining delegation to the Secretary of the Treasury of power in connection with the importation of tea; *Union Bridge Co.* v. *U. S.* (204 U. S. 364), sustaining delegation to the Secretary of War of power in connection with the removal of obstructions to navigation; *United States* v. *Grimaud* (220 U. S. 506), sustaining delegation to the Secretary of Agriculture of power to make rules and regulations governing national forest reserves; *Red "C" Oil Manufacturing Co.* v. *North Carolina* (222 U. S. 380), sustaining validity of a North Carolina statute delegating to the board of agriculture of that State powers governing the sale of illuminating oils; and in many others too numerous for citation.

The Foreign Trade Agreements Act fully measures up to the standards thus prescribed. The Congress was confronted with a condition requiring legislation adaptable "to complex conditions involving a host of details" with which the Congress itself could not deal directly. The Congress met this condition by laying down a definite policy, establishing definite standards, prescribing definite procedure to be followed, and leaving to the Executive the carrying out of the declared policy within prescribed limits upon a determination of the applicable facts.

It is important, moreover, to bear in mind that the Panama Refining Company case dealt with an act of Congress relating to internal affairs as distinguished from foreign affairs. This distinction was noted by Mr. Chief Justice Hughes when, after referring to the early embargo acts discussed above in this memorandum, he stated that these acts were "cognate to the conduct by him (the President) of the foreign relations of the Government," thus indicating that the Court recognized that broader latitude obtains in the international field than exists with reference to domestic affairs. This differentiation was prophetic of the decision of the Supreme Court in the more recent case of *United States* v. *Curtiss-Wright Export Corporation et al.* (299 U. S. 304).

The Curtiss-Wright Export Corporation case dealt with the joint resolution of May 28, 1934, and the proclamation of the President issued thereunder prohibiting the sale of arms or ammunitions of war to countries engaged in armed conflict in the Chaco. The validity of the statute and of the proclamation were attacked on the grounds of unconstitutional delegation of legislaive power. Sustaining the act and the proclamation, the Supreme Court said, in part:

"It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved (pp. 319–320)."

The Court carefully explained that—

"When the President is to be authorized by legislation to act in respect of a matter intended to affect a situation in foreign territory, the legislator properly bears in mind the important consideration that the form of the President's action—or, indeed, whether he shall act at all—may well depend, among other things, upon the nature of the confidential information which he has or may thereafter receive, or upon the effect which his action may have upon our foreign relations. This consideration * * * discloses the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed.

* * * * * * *

"In the light of the foregoing observations, it is evident that this Court should not be in haste to apply a general rule which will have the effect of condemning legislation like that under review as constituting an unlawful delegation of legislative power. The principles which justify such legislation find overwhelming support in the unbroken legislative practice which has prevailed almost from the inception of the National Government to the present day" (pp. 321–322).

The Court concluded:

"* * * It is enough to summarize by saying that, both upon principle and in accordance with precedent, we conclude there is

sufficient warrant for the broad discretion vested in the President to determine whether the enforcement of the statute will have a beneficial effect upon the reestablishment of peace in the affected countries * * * and to prescribe limitations and exceptions to which the enforcement of the resolution shall be subject" (p. 329).

It is not important from the point of view of the constitutionality of a law delegating authority to an agency with respect to tariff matters whether the Congress specifies a particular rate to be applied in a given situation or a maximum or minimum rate beyond the limits of which changes may not be made. Both classes of legislation have been enacted and have been held to be constitutional by the Supreme Court. But far beyond either of these situations are the well known rate-making cases in which the Congress has prescribed no rate and no range within which rates may be fixed, but rather has left to the rate-making body, namely, the Interstate Commerce Commission, the determination of "just and reasonable rates." (*St. Louis & Iron Mountain Ry.* v. *Taylor*, supra; *Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Railway Co. et al.*, supra.)

In view of the historic exercise by the President, under authority of acts of the Congress, of powers similar to those granted in the Foreign Trade Agreements Act and of the express declarations of the Supreme Court in the cases mentioned, it would seem that there no longer exists any sound basis for a contention that the Foreign Trade Agreements Act is unconstitutional because it contains an unwarranted delegation of legislative power. As has been aptly stated:

"Legally and structurally, the Trade Agreements Act seems a model of statutory effectiveness. It is clear, easily construed, and constitutionally orthodox; * * * (46 Yale Law Journal (1937), 669–670)."

Mr. NORRIS. Mr. President, the Attorney General says that after examining the authorities, which were correlated under his direction, he has no doubt whatever of the constitutionality of the act. I wish to read briefly a quotation from the Supreme Court of the United States in an opinion delivered by Chief Justice Taft. It was in the case of *Hampton Company* v. *United States* (276 U. S. 394). The Chief Justice said:

In determining what it (Congress) may do in seeking assistance from another branch—

The executive—

the extent and character of that assistance must be fixed according to common sense—

That is not only good law, but it is itself common sense—

and the inherent necessities of the governmental coordination.

Common sense and the coordination of the Government itself must be considered. What are the propositions confronting us? Has the Congress tried to delegate to some board or the Executive an authority which, from the nature of things, it cannot perform itself? Chief Justice Taft says it must present itself to us as a matter of common sense, and when that is done, we have a right to provide the instrumentality with which to carry into effect the law we have made.

The Chief Justice further said:

If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of legislative power.

Mr. President, my contention is that is what this act does. Let us see what it provides. We are to consider all the circumstances, and take a common-sense view of the whole situation, as Chief Justice Taft said. I shall read now from the act. The joint resolution proposes to put into effect for 3 years more a certain act of Congress.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. WILEY. I am interested in the remarks of the Senator in relation to common sense. I am wondering whether it is not common sense to adopt the Pittman amendment, which would virtually make the Senate a board of review as to the merits of any suggested agreement or treaty.

Mr. NORRIS. Mr. President, in my judgment, the adoption of the Pittman amendment would kill the whole measure as dead as a doornail. It would largely put us back to where we were when we started. The Senate would be kept in the picture and we would have a revision of the tariff. Every time an agreement was made and referred to the Senate it would have to be ratified by a majority of two-thirds, which in all ordinary circumstances would be an impossibility. So if we include the Pittman amendment in the measure, goodbye. The only excuse for voting for the joint resolution, if the Pittman amendment should be adopted, would be because of a fervent hope that the amendment would be stricken from the measure in conference.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. CLARK of Missouri. Is it not true that it would be no more logical, even if a little more candid, to move to strike out all after the enacting clause in the measure than to insert the Pittman amendment?

Mr. NORRIS. I would say so, except for the hope that the amendment would be stricken out in conference.

Mr. CLARK of Missouri. Of course, if the House were to disagree to the amendment, we would still have another vote on the question of receding from the amendment.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. LUCAS. In view of the Senator's statement that, in his opinion, the adoption of the Pittman amendment would kill the trade-treaty program as dead as a doornail, would the Senator care to elaborate upon where we would be going, where we would be drifting, and what would happen if we had no program to follow in the event the Pittman amendment should be adopted?

Mr. NORRIS. The Senator's question is a perfectly proper one, but I was in the midst of explaining what we were doing.

Mr. LUCAS. I will withdraw the question now.

Mr. NORRIS. I shall take it up later; but if I should forget to do so, if the Senator will remind me I shall be glad to discuss the question later.

Mr. LUCAS. Very well. I withdraw the question.

Mr. NORRIS. What are we going to do? We are going to extend the law, and that law provides:

For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living. * * *

Are those laudable aims? Do we want to do those things? That is the purpose for which we are proposing to extend the law. That is what we are laying down as a guide for the President when he extends the law.

in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(1) * * *—

And then are enumerated the things he has a right to do.

Mr. President, is that laying down a sensible program? As Chief Justice Taft asked: "Is that common sense?" Let us read again what the Chief Justice said:

If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of power.

That is the program we are laying down. That is the program we want to carry out. We admit that we as a Congress are not able to do it, even though the Constitution of the United States gives us the authority to do it.

Mr. President, that is not all. That is not the only precaution we have taken. The act further provides:

(2) The President shall be authorized—

If the President, after investigation, makes the findings which I have enumerated, for the purposes I have set forth, which are in the law, then he has the power to—

(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign-trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

That is another restriction on the President. It sets forth what he can do to carry out the objects we have enumerated and placed in the law.

No proclamation shall be made increasing or decreasing by more than 50 percent any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation.

There are quite a number of other restrictions, but, Mr. President, because the time is limited I shall ask unanimous consent to have printed in the RECORD at this point in my remarks the entire act which, if the pending legislation shall be adopted, we are continuing in effect for 3 years more.

The PRESIDING OFFICER. Without objection, it is so ordered.

The act is as follows:

[Public—No. 316—73d Cong.—H. R. 8687]

An act to amend the Tariff Act of 1930

Be it enacted, etc., That the Tariff Act of 1930 is amended by adding at the end of title III the following:

"PART III. PROMOTION OF FOREIGN TRADE

"SEC. 350. (a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce), by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

"(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

"(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 percent any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which, in his opinion, tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

"(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: *Provided*, That the duties payable on such an article shall in no case be increased or decreased by more than 50 percent of the duties now payable thereon.

"(c) As used in this section, the term 'duties and other import restrictions' includes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports."

SEC. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (1) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Every foreign trade agreement concluded pursuant to this act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than 3 years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than 6 months' notice.

(c) The authority of the President to enter into foreign trade agreements under section 1 of this act shall terminate on the expiration of 3 years from the date of the enactment of this act.

SEC. 3. Nothing in this act shall be construed to give any authority to cancel or reduce in any manner any of the indebtedness of any foreign country to the United States.

SEC. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this act reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from such other sources as he may deem appropriate.

Approved, June 12, 1934, 9:15 p. m.

Mr. NORRIS. Mr. President, we are met at the moment by Senators, able constitutional lawyers, whose honesty and patriotism and ability I do not question, who state this legislation is unconstitutional. Since I have been in the Senate and in the House I have very seldom known of any hotly contested measure being under consideration concerning which someone did not exclaim "It is unconstitutional." I have heard that statement made with respect to important legislation ever since I have been in the Senate. I remember many years ago when Congress had under consideration the Webb-Kenyon bill. The House passed it. The Senate passed it and it went to the President, President Taft, and he vetoed it. His veto was based on one ground only, that it was unconstitutional, and he made an argument which was a masterpiece. Along with it he sent to Congress an argument made by his Attorney General, a longer and more extended argument. They were both masterpieces. Both declared the legislation to be unconstitutional. I saw Senators rise in their places, and before them were piled ponderous law books in such numbers that the Senators were hidden behind them. They proclaimed the measure unconstitutional. They said "Unclean. Unclean. We cannot pass the measure. We must not pass it."

Mr. President, I had voted for the bill, and then listened to the debates with respect to its constitutionality. I was frightened because of the wonderful array of legal talent which said the measure was unconstitutional. I had no doubt they were in earnest, and I was obliged to doubt my own judgment. As I looked at the matter, as I listened to the arguments, I was still unconvinced. I voted for the bill, and I voted to pass it over President Taft's veto. It became law. It went to the Supreme Court very shortly afterward, and the Supreme Court said it was constitutional. And the Supreme Court will hold that the legislation we are now considering is constitutional. If anything ever seemed plain to my mind it is that this law is perfectly constitutional when we take into consideration all

the circumstances surrounding it and, as Chief Justice Taft said we should do, take a common-sense view of the situation.

I have now reached a point where I think I can yield to the Senator from Illinois [Mr. LUCAS]. What was his question?

Mr. LUCAS. Mr. President, I rise to ask the Senator a question. I agree with the argument which has been made by the distinguished Senator, that in the event we shall adopt the amendment offered by the Senator from Nevada [Mr. PITTMAN], to all intents and purposes trade agreements will be dead. I should like to have the Senator comment, in his able way, if he cares to do so, upon what he thinks the future of the country would be with respect to a commercial program with foreign nations in the event we should not continue the program which we now have under consideration.

Mr. NORRIS. I thank the Senator. I had intended to discuss that question, but probably I should have forgotten it if the Senator had not called it to my attention. It is an important question.

A war is going on in Europe. Suppose we kill this legislation, which we can do either by voting down the joint resolution or by adopting the Pittman amendment. Where shall we be at the close of the great struggle in Europe? Shall we be prepared to protect ourselves and to act in harmony and with discretion among the surviving nations in Europe, whichever they may be? Shall we be able to put together the fragments and pieces of a torn and shattered civilization, or help to do so, without any disadvantage to our people, or with as little disadvantage as possible? That problem may be before us shortly. I cannot say. I do not have the vision of prophecy. But, Mr. President, in my judgment the time will come—it may be in 6 months or it may not be for 2 or 3 years—when we shall be faced with a destroyed civilization, a world rent asunder, with the civilization of Europe torn to shreds, and a suffering world in the agonies of desperation and death.

If we do nothing here, can we offer those nations some adjustment of the tariff situation? I do not know what adjustment will be necessary; but we know it will apply to practically every nation which survives, if any survive.

Shall we be prepared? If so, how? If we defeat this legislation, Senators, the only preparation we shall have is for the Senate and the House of Representatives to go over the world making treaties. According to the Pittman amendment, that can be done if two-thirds of the Senate agree to it.

Mr. President, in my judgment the time will come, in the not distant future, when the situation suggested by the Senator from Illinois [Mr. LUCAS] will face us, our Nation, and our people. Shall we be able to meet the situation when we face it? Shall we be prepared to meet it with instrumentalities of government? If the President has the authority under the act to make the agreements set forth under the stipulations I have placed in the RECORD, it seems to me that is as far as human ingenuity can go in devising ways to meet the situation which will confront us at that critical period.

Therefore, it will be more important within the next 3 years than it has been during the past 3 years that the ability to do some good for ourselves and for the world shall exist in the law, and that we shall not be helpless.

Mr. President, in that connection I wish to read again what Chief Justice Hughes said in the case of United States against Curtiss-Wright Export Corporation. The opinion of the Supreme Court in that case takes up the foreign situation. It calls to the attention of our country the fact that the foreign situation may be entirely different from the domestic situation, and that we are authorized to go further in the foreign situation than in the domestic situation. Let me read from the opinion of the Supreme Court in the case of *U. S.* v. *Curtiss-Wright Export Corporation* (299 U. S. 304):

> It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restrictions which would not be admissible were domestic affairs alone involved.

Think of that, Senators! That is the language of the Supreme Court on this question. We are unprepared for what may come after the World War unless we extend this law.

Mr. President, it seems plain that the Supreme Court has said that in foreign relations it will go further in upholding a delegation of power—if we wish to call it that—than in purely domestic affairs.

In the Panama Refining Co. case Chief Justice Hughes laid down a rule. In that case the Court found that the delegation was too great, but it laid down a rule which ought to apply to every case. It applies to this case. This is what the Court said:

> Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the national legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its functions in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. Without capacity to give authorizations of that sort we should have the anomaly of a legislative power, which in many circumstances, calling for its exertion would be but a futility.

Mr. President, those opinions from the Supreme Court of the United States lead me to conclude that we have presented before us not entirely a domestic situation, but one which deals almost entirely with foreign trade. The Court has clearly said, in so many words, that we can go further in that case than we could if we were dealing only with domestic matters. That is apparent to any student who will think. The reasoning of the Court cannot be attacked. It cannot be denied. Every Senator must know that to be true. We are delegating power to the President to do something in relation to foreign matters which we as Senators and Members of the House cannot ourselves do. The power applies directly to the ability to carry on and make agreements at the close of the present war in Europe.

The VICE PRESIDENT. All time on the amendment has expired. The question is on the amendment offered by the Senator from Nevada [Mr. PITTMAN]. Without objection the clerk will report the amendment.

The LEGISLATIVE CLERK. At the end of the joint resolution it is proposed to insert the following:

> SEC. 2. Effective on the date of enactment of this act, section 2 of such act of June 12, 1934, is amended by adding at the end thereof the following new subsection:
>
> "(d) No foreign trade agreement hereafter entered into under section 1 of this act shall take effect until the Senate of the United States shall have advised and consented to its ratification, two-thirds of the Senators present concurring."

Mr. MALONEY. Mr. President——

The VICE PRESIDENT. The Senator from Connecticut.

Mr. MALONEY. I desire to obtain the floor, in the hope that I may have it immediately after the vote shall have been taken.

The VICE PRESIDENT. Several Senators have asked for recognition immediately after the vote in order to offer amendments. Just what arrangement has been made, the Chair does not know.

The hour of 4 o'clock having arrived, under the unanimous-consent agreement the vote will now be taken on the amendment offered by the Senator from Nevada [Mr. PITTMAN].

Mr. PITTMAN. Mr. President, on this question I demand the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BANKHEAD (when Mr. HILL's name was called). My colleague [Mr. HILL] is absent on public business. If present, he would vote "nay."

Mr. LUNDEEN (when his name was called). On this amendment I have a pair with the senior Senator from West Virginia [Mr. NEELY]. If permitted to vote, I should vote "yea." If present and voting, the Senator from West Virginia would vote "nay."

Mr. REED (when his name was called). On this vote I have a pair with the junior Senator from Alabama [Mr.

HILL]. If that Senator were present, as stated by his colleague, he would vote "nay." If I were permitted to vote, I should vote "yea."

Mr. LUCAS (when Mr. SLATTERY's name was called). My colleague [Mr. SLATTERY] is unavoidably detained on important public business. If he were present, he would vote "nay."

Mr. BARKLEY (when Mr. TYDINGS' name was called). The senior Senator from Maryland [Mr. TYDINGS] is unavoidably absent in fulfillment of an engagement which he made weeks ago. Yesterday he announced that he had a pair with the senior Senator from Montana [Mr. WHEELER], who is necessarily absent. If the Senator from Maryland were present today, he would vote "nay," and if the Senator from Montana were present he would vote "yea."

Mr. WILEY (when his name was called). On this amendment I have a pair with the junior Senator from Illinois [Mr. SLATTERY]. If he were present, he would vote "nay." If I were permitted to vote, I should vote "yea."

The roll call was concluded.

Mr. HARRISON. I announce that the Senator from Nebraska [Mr. BURKE], who is necessarily absent, is paired with the Senator from North Carolina [Mr. BAILEY], who is detained on public business. If the Senator from Nebraska were present, he would vote "yea," and the Senator from North Carolina, if present, would vote "nay."

Mr. MINTON. I announce that the Senator from Florida [Mr. ANDREWS] is detained on public business.

The Senator from West Virginia [Mr. NEELY] has been unexpectedly called to West Virginia on important public business. I am advised that he has a pair with the Senator from Minnesota [Mr. LUNDEEN]. The Senator from West Virginia, if present and voting, would vote "nay."

The result was announced—yeas 41, nays 44, as follows:

YEAS—41

Adams	Danaher	Johnson, Calif.	Pittman
Ashurst	Davis	Johnson, Colo.	Shipstead
Austin	Downey	King	Taft
Barbour	Frazier	La Follette	Thomas, Idaho
Bone	Gerry	Lodge	Tobey
Bridges	Gibson	McCarran	Townsend
Bulow	Glass	McNary	Vandenberg
Capper	Gurney	Maloney	White
Chavez	Hale	Murray	
Clark, Idaho	Holman	Nye	
Connally	Holt	O'Mahoney	

NAYS—44

Bankhead	George	McKellar	Schwellenbach
Barkley	Gillette	Mead	Sheppard
Bilbo	Green	Miller	Smathers
Brown	Guffey	Minton	Smith
Byrd	Harrison	Norris	Stewart
Byrnes	Hatch	Overton	Thomas, Okla.
Caraway	Hayden	Pepper	Thomas, Utah
Chandler	Herring	Radcliffe	Truman
Clark, Mo.	Hughes	Reynolds	Van Nuys
Donahey	Lee	Russell	Wagner
Ellender	Lucas	Schwartz	Walsh

NOT VOTING—11

Andrews	Hill	Reed	Wheeler
Bailey	Lundeen	Slattery	Wiley
Burke	Neely	Tydings	

So, Mr. PITTMAN's amendment was rejected.

Mr. HARRISON. Mr. President——

The VICE PRESIDENT. The Senator from Mississippi. Before the Senator proceeds, the Chair will request that there be order on the floor and in the galleries.

Mr. HARRISON. I move to reconsider the vote by which the amendment was rejected.

Mr. BARKLEY. I move to lay that motion on the table.

Mr. JOHNSON of California rose.

The VICE PRESIDENT. The question is on the motion of the Senator from Kentucky to lay on the table the motion of the Senator from Mississippi. (Putting the question.) The "ayes" appear to have it——

Mr. JOHNSON of California. Mr. President, I was on my feet asking for the yeas and nays upon the motion.

The VICE PRESIDENT. The Chair did not see the Senator. The Senator from California asks for the yeas and nays on the motion to lay on the table. Is the demand seconded?

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. REED (when his name was called). On this question, as previously announced, I have a pair with the junior Senator from Alabama [Mr. HILL]. If that Senator were present he would vote "yea" on this question, and if I were at liberty to vote I should vote "nay." I withhold my vote.

Mr. LUCAS (when Mr. SLATTERY's name was called). My colleague [Mr. SLATTERY] is unavoidably detained on official business. If he were present he would vote "yea."

Mr. BARKLEY (when Mr. TYDINGS' name was called). Making the same announcement as on the last vote, I wish to say that if the Senator from Maryland [Mr. TYDINGS] were present he would vote "yea." If the Senator from Montana [Mr. WHEELER] were present he would vote "nay."

Mr. WILEY (when his name was called). I have a pair with the Senator from Illinois [Mr. SLATTERY]. If he were present he would vote "yea," and if I were at liberty to vote I should vote "nay." I withhold my vote.

The roll call was concluded.

Mr. HARRISON. The Senator from Nebraska [Mr. BURKE] is paired with the Senator from North Carolina [Mr. BAILEY]. I am advised that if present and voting, the Senator from Nebraska would vote "nay," and the Senator from North Carolina would vote "yea."

Mr. MINTON. The Senator from Florida [Mr. ANDREWS] is unavoidably detained.

The Senator from West Virginia [Mr. NEELY] is paired with the Senator from Minnesota [Mr. LUNDEEN]. I am advised that if present and voting, the Senator from West Virginia would vote "yea," and the Senator from Minnesota would vote "nay."

The result was announced—yeas 45, nays 40, as follows:

YEAS—45

Bankhead	George	Mead	Smathers
Barkley	Gillette	Miller	Smith
Bilbo	Green	Minton	Stewart
Brown	Guffey	Norris	Thomas, Okla.
Byrd	Harrison	Overton	Thomas, Utah
Byrnes	Hatch	Pepper	Truman
Caraway	Hayden	Radcliffe	Van Nuys
Chandler	Herring	Reynolds	Wagner
Clark, Mo.	Hughes	Russell	Walsh
Connally	Lee	Schwartz	
Donahey	Lucas	Schwellenbach	
Ellender	McKellar	Sheppard	

NAYS—40

Adams	Danaher	Holt	Nye
Ashurst	Davis	Johnson, Calif.	O'Mahoney
Austin	Downey	Johnson, Colo.	Pittman
Barbour	Frazier	King	Shipstead
Bone	Gerry	La Follette	Taft
Bridges	Gibson	Lodge	Thomas, Idaho
Bulow	Glass	McCarran	Tobey
Capper	Gurney	McNary	Townsend
Chavez	Hale	Maloney	Vandenberg
Clark, Idaho	Holman	Murray	White

NOT VOTING—11

Andrews	Hill	Reed	Wheeler
Bailey	Lundeen	Slattery	Wiley
Burke	Neely	Tydings	

So Mr. HARRISON's motion to reconsider was laid on the table.

Mr. McCARRAN. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 1, line 8, after "1940", it is proposed to insert a comma and the following:

with the proviso that the authority conferred in the said act does not embrace authority to include in any trade-agreement negotiations excise taxes imposed under the provisions of paragraphs (4), (5), (6), and (7) of subsection (c) of section 601 of the Revenue Act of 1932, as amended, which are now a part of the Internal Revenue Code, subtitle (c), chapter 29, subchapter (b), part 1, sections 3420, 3422, 3423, 3424, 3425.

Mr. McCARRAN obtained the floor.

Mr. MALONEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. McCARRAN. I yield to the Senator from Connecticut, if in the interim we may have an understanding that the

Senator from Connecticut may conclude his speech and that my amendment, which is now pending, may go over until Monday.

Mr. BARKLEY. That is entirely satisfactory. I was satisfied that the Senator did not want to take up the amendment this afternoon.

Mr. MALONEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. McCARRAN. I yield to the Senator from Connecticut on that agreement.

Mr. MALONEY. Mr. President, because of the tremendous importance of the proposal and subject now under consideration, I feel in duty bound to make a statement setting forth the principal reasons why I supported the Pittman amendment, and why, without the Pittman amendment, I am opposed to and shall vote against the joint resolution, as I voted against similar measures on two previous occasions.

I shall not discuss the matter in great detail. The resolution and its powers, and the possible consequences of its continuance, are so well known to the Members of the Senate, and the matter has been so forcefully and eloquently and intelligently dealt with since we took up the debate on Monday at noon, that there is little need for me to delay the Senate for any length of time in an explanation of my views.

But I also feel that in view of the magnitude of the question, and the fact that it is so definite a departure from the age-old doctrine of the Democratic Party, I would not be true to myself, or to the constituency which I have the honor in part to represent, or to the Senate, were I to let the matter pass without some comment.

As is so often the case when Members of Congress legislate under the stress of serious economic situations, or when congressional action is hastened by pressure from any source, the Congress is in danger of failing to weigh and measure all of the consequences of this action.

When the law, the extension of which we are now considering, was passed in 1934, we were sitting in the afterglow of the bewildering panic years which had in many instances heightened the fears and lessened the courage of the American people, and made some of us temporarily forget our glorious past, and the fact that we had remained a great and powerful Nation by adhering to the teachings of an enlightened group of men, who very patiently, and with a rare degree of calm, framed the fundamental law at Philadelphia nearly a century and a half before.

I was opposed to this law in 1934, and voted against it.

The fact that it seemed to work successfully again prompted Congress and our national leadership to speed its reenactment and the extension of its provisions in 1937. I was opposed to granting a renewal of the authority at that time; and now, as we near the end of the second extension, my views remain unchanged. I am still opposed to it.

I see in the earlier action of the Congress, and in what we now seem about to do, a danger to the Republic, and a threat—perhaps not yet too clear—to the form of government of which we are so proud, and through which we have attained the highest place in a world that has experimented with so many different forms of government.

The Constitutional Fathers, fresh from the Revolution and just out from under the yoke, came together quite unhampered by a pressure from outside. The members of that early convention—who, I believe, were especially inspired by Divine direction—patiently worked out a document which up to this time has weathered the storms and has directed the Nation forward to one success after another, and to a wealth and a power not dreamed of in the lives and generation of the men who wrote the Constitution. Sometimes we have faltered; sometimes we have been compelled to stop for a new footing, or a breathing spell; and once or twice we were compelled to retreat, but only for a strategic purpose. Never once until 1929, however, was there serious reason to believe that there was the slightest danger of defeat.

On the wisdom of their deliberation and decision we have, until lately, taken our stand. They have had our everlasting applause and our enduring appreciation, and while we have sometimes been in disagreement as to their full intent and purpose, their language is for the most part as clear as any language ever penned by statesmen. These men seem to have had an especial gift of vision that penetrated the lengthening years ahead. They provided a peculiarly protective flexibility in the Constitution, and we have taken advantage of that flexibility to meet changing economic conditions which these men seemed to know were inevitable. We can stretch the language, but we cannot set it aside excepting in the manner which they provided.

While political parties and statesmen have sometimes disagreed over constitutional meaning, they have, upon the completion of their deliberations, and in their resulting decisions, finally found satisfaction, and safely made progress. Sometimes we have made mistakes. Sometimes the Executive has made mistakes. On occasions the Supreme Court, in short periods of darkness, got off the path, but almost always—yes; I think I can safely say almost always—when the mistakes were discovered there was a correction of the error.

I should like to believe that if the step we are about to take is a great wrong—and I am sure it is—once again there will be a correction. But on that point I am afraid, because we are in the shadows of a world upheaval. We are living in compartments of days, and when we are completely honest with ourselves our frailties loom pretty large, and we are making slow progress in a world of economic and political uncertainty. The nations of the world are pretty much in the throes of confusion and despair, and because we do not know what is coming next, and because it is still very dark, it is extremely dangerous to move fast, lest we take a false step that may cause us, and perhaps those about us, serious harm.

I now tell my colleagues that I see in this proposal the possibility of dictatorship; but I hasten to add that it is not a dictatorship of our present national leadership, or any President immediately following, of which I am afraid. I am afraid of a dictatorship of a majority group. I am afraid of a dictatorship of centralized government that is given its power by the Congress of the United States. Any kind of dictatorship, excepting the clear dictatorial voice of the American people, will prove disastrous to our form of government. So long as we have hearkened to our American sovereign power we have been successful. That power was created by the Constitution, and the rights of the Chief Executive, and the Congress, and the Supreme Court, seem to me to have been in most instances clearly defined—and where the founding fathers felt a reluctance or uncertainty about the future, they reserved the powers for the States of the new Union and the people.

During the past few days we have heard a most interesting debate. It has been kept upon a high plane, and the speeches and observations have been made by men of deep thought and high purpose, and with an appreciation of the seriousness of what we do. I can, and want to, associate myself almost entirely—though not quite entirely—with the remarks of both the able Senators from Nevada and the distinguished senior Senator from Wyoming. I am without their gifts of eloquence, and fall short of their knowledge of the law, but none of us can lightly dismiss the force of their arguments. Up to now there has been no challenging satisfactory answer—at least for me—to the facts they set forth, and, because the language of the Constitution is so clear that those who run may not only read but understand, I cannot visualize a successful answering argument to what they have said.

It seems to me that this proposal offends, and trespasses upon, and violates, the fundamental law; and, while there is a remote possibility that the failure of its reenactment might slightly retard the business of some, and seem to dissipate the noble aims of others, let us ever be mindful that we can change the law, even the fundamental law, when the people want it changed. I would not be completely fair with

myself if I did not confess that there have been times in my life when I should have liked to see a greater power in the Federal Government, but the surrender to central power has so weakened, and in instances actually destroyed, the voice of the peoples in other once happy lands, that I do not want to surrender another particle of congressional authority.

Neither would I be fair to myself or to the proponents of the measure before us, if I did not just as freely confess that I favor reciprocal-trade treaties. I am confident that they can be made to work, and work favorably and to great advantage, for I have a greater confidence than some other men in the Senate of the United States, and I do not believe that there are men here who would long forget their country's welfare because a great legislative proposal, benefiting the entire country, threatened to slightly hinder an industry or business in an individual State.

I have on hundreds of occasions, and with a real joy and satisfaction, publicly applauded President Roosevelt and his accomplishments and leadership. I have been and I am on his side. The place he will be accorded in history is so great that I think it is beyond our imagination. I think he saved his country and its nearly perfect form of government, and I have a complete and abiding faith in his patriotism and nobility of purpose and in his political wisdom. In my judgment, there is no man better informed on international affairs, or so well acquainted with internal affairs. I see no man with a greater love of his neighbor; but I do feel, in this instance, as I have in one or two others, that his intensity of purpose has been so great and fervent that he temporarily fell into the shadow of his own burning desire to bring his countrymen out of the depths. This ambition has carried him farther than any man of our time, or perhaps of all time, and has lifted his country up with him, and history and the readers of history down through the ages will ever remember with prideful respect and grateful recollection the goodness of his deeds, the successes of his administration, and the greatness of his character.

I also have profound respect for Secretary of State Hull, as well as an unbounded admiration for his noble and lofty aspirations. But never let it be said that each Chief Executive of this Nation, or any Secretary of State is entitled to exercise and practice his philosophy of tariff and treaty making, and his own ideas on the method of stimulating foreign trade, without adherence to the directional signs of the Constitution.

I beg the Senate to believe or perhaps I should more respectfully say give thought to one fact, which is that another President of the United States, in another cloudy period of our national life may be an extremely high protectionist or a free trader. I believe it was partially with that thought in mind and the determination that the representatives of the people would have the last word on the method of regulating foreign commerce and on the right of approval or disapproval of treaty agreements with other nations that the founders wrote the treaty language. I believe it was with these things uppermost in their minds, in those days of careful discussion and penetrating thought, that the Founding Fathers, the 55 men at Philadelphia, prepared a document which should never die.

While the proponents of this measure are motivated only by a desire to protect business and our economic life, let us not forget that a false step might ruin business. Let us always keep in mind that a free-trade executive or a high-protectionist could ruin any business—or favor any business—even if influenced by a conscientious desire to do only good. He might, under this extraordinary power, take another step, or more than one, which would do us irreparable damage, and finally destroy the form of government we cherish. Perhaps I am wrong in my view that it is on the side of wisdom to keep to the language of the Constitution, and, if I am, a way is provided for such changes as the people may care to make.

I would be against a change in this instance. I would help to carry an argument to the people; but if the view I entertain was overridden by a majority, it would not then be a violation of the law to centralize this power. The advocates of the plan do have the avenue to reach the fulfillment of their desire, and, while the proceedings might be painfully slow for them, it is ever so much better that there be a delay and a mistake than that there be haste, and a tragedy.

Mr. President, I know the views of the strongest advocates of the measure. I know that the State Department, and the administration leadership, and some of those who are greatly concerned with the promotion of business between nations, feel that if we had adopted the Pittman amendment we might fall back upon the painful logrolling practices of an earlier day. For myself, let me say that I have a very high opinion of the combined view of Senators. Especially do I have such an opinion if they can be kept free from the spell cast by the burning views of men so motivated by their desire for world trade that they would boldly set aside the traditions of 150 years and the simple but careful directions of the men who so shortly before offered their lives for the creation and preservation of this free country.

Occasionally Congress has fallen under such a spell. I have said that the Congress has made mistakes—perhaps more often than the Executive—but up to now it has erased most of the errors which were made under the strong lash of public opinion, and in the excitement often created by a struggle to get through the economic or social shambles.

I believe it was the very distinguished late Senator from Montana, Mr. Walsh, when dealing with the same sort of questions we have before us now, who said that the skies are never entirely clear. That statement may ever be true.

Some men find it less difficult than others to abandon the safeguards of the fundamental law; but we should try to remember that other peoples, who have yielded to what they thought was an expeditious, and the easier, way, have sacrificed the almost sacred privilege of a direct voice in the management of their own lives, and business, and governmental affairs. We are reaching for security and tranquillity, and that is just what the peoples of certain saddened nations of other parts of the world were seeking when they abandoned the rights and powers they held as individuals. What they obtained for the sacrifice far from balanced the scales, and was worthless from the viewpoint of free Americans, to whom the dignity of man is paramount. These peoples may some day recapture their loss, but I doubt that it will come back to them very soon, or at least without the shedding of blood and a preceding greater chaos.

I have referred to the dignity of man. Let me for a moment refer to the dignity of nations. Since the passage of the original Reciprocal Trade Agreements Act, the United States has entered into a total of 22 reciprocal-trade pacts. In three instances the foreign governments with whom we entered into such treaties required no legislative action to complete the pacts. These countries were Belgium, Cuba, and Ecuador. But let me point out that in one of these cases, namely, that of Ecuador, it was later found, "for reasons of unexpected necessity" that the matter had to be submitted to the national assembly.

In the cases of Canada and Czechoslovakia and France, and also the Netherlands, Switzerland, Turkey, Great Britain, and Venezuela, it is, or was—Czechoslovakia is temporarily nonexistent—necessary to submit the treaties to their legislative bodies. I must confess that I am not, beyond that, familiar with the mechanics of the foreign procedure in the cases of these treaties, but I do know that the treaties are only provisionally effective until passed upon by the parliamentary bodies.

Now let me give a list of the countries in which the agreements are not at all effective until they receive legislative approval. These are: Brazil, Colombia, Costa Rica, El Salvador, Finland, Guatemala, Haiti, Honduras, Nicaragua, and Sweden.

It seems strange to me—very strange—that the greatest and most powerful country in the world has suggested that its legislative body is not dependable in the matter of determining what is best for its people. This part of my statement might be stretched out to a long discussion, but I do

not want to detain the Senate too long, and I leave this reference to the thought and consideration of my colleagues.

During the course of this debate Senators have pointed out how reciprocal-trade treaties heretofore enacted have actually set aside parts of earlier treaties which had undergone Senate ratification. One of the references in this connection was submitted by the distinguished senior Senator from Michigan [Mr. VANDENBERG] during the masterly address of the senior Senator from Nevada [Mr. PITTMAN], when he pointed out that a trade treaty made with Colombia in 1936, contained the following language:

As long as the present agreement remains in effect it shall supersede any provisions of the treaty of peace, amity, navigation, and commerce between the United States and the Republic of New Granada.

Immediately after that important contribution to the debate, the junior Senator from Nevada [Mr. MCCARRAN] obtained the right to interrupt, and pointed out that in the trade treaty with Belgium there was contained "identical language affecting a treaty of 1872, known as the Belge-Luxemburg Treaty."

Witness after witness has at sometime or at some place testified on this subject, and the discussions we have had in the Senate during the past few days have furnished reason and reference which prove very definitely, at least to me, the need that we stop where we are and revise the method of making reciprocal-trade treaties.

I feel compelled to agree with the request of the senior Senator from Nevada, the distinguished chairman of the Committee on Foreign Relations, that nothing be done at the moment to interrupt existing agreements. I would not help to throw world trade out of gear by making retroactive the action proposed by the Pittman amendment. I would start afresh and anew, just as I would have started in 1934, and I would not make a new treaty excepting in the traditional and refreshing American way.

Mr. President, I should now like to make an observation or two which are not especially related to my argument, but which do have a bearing on the subject. Let us keep in mind that we can never compel others to buy from us, and that in many instances other people have refrained from buying when we expected, with good reason, that they would. The complications of the moment are so great, and governmental responsibilities throughout the world so confusing and uncertain, that other nations are living in compartments of days, as we are, and they seek to protect themselves as best they can.

Elsewhere government finances and currencies are uncertain, and we know not what tomorrow will bring. The wars on either side of us will force men and nations to move in surprising directions. We have internal complications bearing upon agriculture and business that further greatly confuse our trade ambitions and necessarily affect our trade plans. I doubt that we would now make a new treaty under any circumstances, and I doubt that we have a right to expect that any nation will favor us with business just because we want or need business. Great Britain, probably hanging on by her fingertips, is resorting to unusual practices in her foreign trade. She demands payment in dollars. We do not yet know exactly how much this means to us, but we are somewhat afraid of the possible consequences.

Witnesses almost without end could be called in defense of the stand I take, and if we had easy access to the storehouse of records on this subject we would find statements made by members of all parties that would help to steady our thinking. Some others who have spoken in this debate have called the Secretary of State as a defense witness, and I am going to call witnesses briefly to testify for my opinion. Before I do so, however, I want to refer the Senate to the statement of the man who was the first choice of the President of the United States for his Attorney General. Next I call upon the best witness I know. Let me read. I read from a statement which was issued in 1929, when Herbert Hoover was President of the United States, and when the tariff question was the issue of the moment. This particular statement, while made concerning an issue not identical with today's issue, was directed to the so-called flexible tariff, which my party then maintained was an illegal delegation of congressional power. The statement, in part, is as follows:

A question of far-reaching consequence transcending considerations of party prompts us to issue a public statement in relation to the so-called flexible provisions of the tariff bill now pending before the Senate.

The question involved is one that, in our opinion, strikes at the very roots of constitutional government. It concerns the preservation unimpaired or the abandonment of the power of levying taxes by that branch of the Government which the forefathers agreed should alone be charged with that duty and responsibility.

Whatever argument could be advanced during the war and immediately following for delegation to a degree of the taxing power to the Executive unquestionably no longer exists. To incorporate now in the law any recognition of a right of the Executive to impose taxes without the concurrence of the legislative branch is without justification.

Authority in the Executive to make the laws that govern the course of commerce through taxation is especially objectionable.

Mr. President, I should like to say, in parenthesis, that it does not seem to be so terribly objectionable now.

It is an entering wedge toward the destruction of a basic principle of representative government, for which the independence of the country was attained, and which was secured permanently in the Constitution.

There is no issue here as to the integrity of any Executive who has had, or may have, extended to him the exercise of this power. The issue is one of taxation by one official, be he President or monarch, in contrast to taxation by the representatives of the people elected, entrusted exclusively with the power to seize the property of the citizen through taxation. If proof were needed that the danger which the forefathers foresaw is inherent in this issue, a mere casual inquiry into the methods employed, selfish influences used, sinister schemes and contrivances brought to bear, one need but examine the record.

Bear in mind, Senators, that this is not my language. I am not saying this. I am reading from a statement made by distinguished Americans. I wish to emphasize the fact that they said that the question involved is "one that in our opinion strikes at the very roots of constitutional government"; and I wish to reiterate that, at a time when they were deliberating calmly, they said: "There was no party question involved." I read further from the statement:

The principle is: Are taxation laws, and their application, to be made virtually in secret, whatever may be said about a limiting rule, or are they to be enacted by the responsible representatives of the people in the Congress, where public debate is held and a public record made of each official's conduct?

The arbitrary exercise of the taxing power, all the more dangerous if disguised and not obvious, in its basic character is tyranny. Resistance to the impairment of this popular right has largely occasioned many of the wars and revolutions of the past.

An issue of this importance should not be associated with the opinions or necessities of those interests, States, or sections that directly profit by some rate schedule in the body of the tariff act. With respect to the principle here at stake, any trading or logrolling is especially unjustifiable and indefensible. Neither should we be unduly influenced by the attempt to divert attention from this momentous issue by condemnation of, and emphasis upon, the dilatory and unsatisfactory results of congressional procedure.

Mr. President, it is odd that at this late date we are now compelled to listen to the statement that our foreign trade will stop unless the act is continued, and that it would be a violation of the Constitution to adopt such a proposal as the Pittman amendment. I blush with shame.

I read further:

No one seeks to prevent or in any way to interfere with the investigations and reports of the Tariff Commission in connection with emergency tariff legislation. The point is, we emphatically insist that final action and responsibility based on Tariff Commission reports shall be taken by the Congress.

I leave the statement for a moment to reemphasize that that is my feeling today; to say again that I believe in commercial treaties; to say again that I abhor logrolling; and to point out once more that I have faith in the Congress and great faith in the Senate and in the patriotism of its membership.

I continue to read from the statement:

For the purpose of preventing apprehended congressional delay an amendment has been made providing for the submission of the

reports to the Congress by the President, and, furthermore, an amendment will be presented strictly limiting action by the Congress to matters germane to the particular subject matter or rates recommended by the President after investigation by the Tariff Commission.

Mr. President, I pause for a moment to say that such an amendment will be presented again, and Senators will once more have an opportunity to justify their statement.

I continue to read:

We do not hesitate to say that if this extraordinary and what we believe to be unconstitutional authority passes now from the Congress, it is questionable if there will ever again be a tariff bill originated and enacted by the Congress.

I digress again for a moment to point out that the distinguished signers of this statement felt then, as I do now, that the danger was great. Let me say that it is even greater at this moment.

Again I read:

It is our solemn judgment—

This is a Democratic statement, Mr. President. I am quoting from the language of the chairman of the Finance Committee, the majority leader of the Democratic Party, and other Members of this body who have just voted against the Pittman amendment.

Again I read:

It is our solemn judgment that hereafter all taxation through the tariff, and regulation of commerce thereby, will be made by the Executive.

At this point I wish to say, in parenthesis, that their prediction, based upon their solemn judgment is in danger of becoming true; and some of them will help to bring it about. I read again:

It is the inherent tendency of this tariff-changing device and the apparently conscious purpose of its proponents to use it to keep the tariff out of Congress where it is such an embarrassing business, as everyone knows, to the party that profits politically by it. So also it will be of distinct advantage to the interests that are the direct beneficiaries of the tariff.

In an age where there has been a steady tendency to rob the individual citizen of his power and influence in his Government through bureaucracy, we deem it our duty to vigorously protest any further encroachments in this direction, and especially with respect to taxation.

Mr. President, they were my teachers. This Democratic leadership helped to keep in me the faith I learned in the dark days of the Democratic Party. This statement, which is now more important than when it was made in 1929, will be of long-lasting interest. The signers and the authors concluded this fine democratic argument in the following sentence:

In the hope of arousing the people, regardless of party, to take a broad, public view of this important public question, we make this appeal.

Mr. President, I likewise make my humble appeal, although I have no desire to arouse the people. I want to arouse and quicken the immediate thinking of my colleagues in the Senate. I want to reawaken the thinking and patriotic sentiment which prompted the writing and the issuance of the statement which I have just read. It was signed by the then outstanding leaders of the Democratic Party in the United States. They were Members of the United States Senate. They were members of the Finance Committee. Save one, they are all here now, and are still the leaders. I hope that those of them who may have reached a new opinion have not permitted the new view to become too firmly fixed.

Mr. President, no body of men in all the world has a greater burden of responsibility than the Senators here assembled this afternoon. What we do is of such far-reaching consequence that I discuss this matter with a deep feeling of humility, and I hope an appreciation of my own limitations. My pride in our keeping the traditions of democracy is not so great as it once was, as I find myself compelled humbly to seek an opportunity to talk with the tariff-making committee—made up of men almost unknown to those whom I represent—to beg them not to treat too harshly the people of my State. If a plan for tariff making by a small committee of men—men out of reach of the people—coupled with the suggestion that such a group make trade treaties unhampered by the peoples' opinion, had been proposed at the Constitutional Convention I doubt that the statesmen present would have given it more than a moment's passing notice.

What we do here at any time affects almost every home in the land, and what we do here on this occasion may be felt forever after in America. It may bear upon the future success and happiness, and perhaps even the liberty, of free-born American men. It is a concentration of power more dangerous than a concentration of wealth; and I hope it is not too late for the voices of those of us opposed to the measure in its present form to be heard above the desire of other patriotic men, who seem to see a short cut to improved conditions.

I have already said that the Constitution is flexible and enables us to go far in many directions; but I beg the Senate to heed the fact that in the instance where it is touched by this subject, it is touched "head on," and the language which this measure violates is as clear as language can be.

There is much that I fail to understand in the economic confusion of our world today; and I frequently fail to keep up with what sometimes prove to be flexible interpretations of lawyers. Sometimes I find it especially hard to keep pace with the changing interpretations of the brilliant lawyers in the Senate.

Patience has ever been a paramount virtue of government, though in times of stress it is difficult to practice patience, because the tendency to expedite is prominently and everlastingly present. Those who are impatient, despite the fact that we profitably kept faith with the authors of the Constitution for generations, need a further word of warning.

Attempting to hurdle or circumvent the Constitution, when such a venture is encouraged by what gives promise of being a happy result, is just as dangerous as such an attempt for an evil purpose. If I may be coldly harsh in the choice of a word, let me issue a warning that it is horribly unwise to open the gate in this manner. There may be a horseman somewhere behind who is not bent on a mission of such noble intention. I once said on the floor of the Senate that it is dangerous to entertain the idea that every administration is entitled to a sympathetic Court. I now say again, as forcefully as I can, that it is no less dangerous to follow the thought that every Executive is entitled to complete freedom in the consummation of treaties. I feel on this matter more deeply than I can explain; and while I conclude with a feeling that my contribution to the debate has not been great, I wish my senatorial associates to have some idea of the reasons for the views I hold and the vote I shall cast.

A great humorist once said that the Constitution follows the flag on Mondays, Wednesdays, and Fridays. In fact, that famous Mr. Dooley had even less respect for the certainty of our constitutional government when he penned the famous phrase to the effect that the Constitution followed the election returns. Certainly, Mr. President, we Senators, if for no other reason than our solemn oath to uphold the Constitution, ought to see to it that the Constitution follows no group, no theory, no passing fancy of man or men, but follows the sacred path laid out by the founding fathers.

The Constitution, with reference to treaties, in article II, section 2, provides that—

The President * * * shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

There can be no mistaking that language. It cannot be changed by interpretation or desire. Even the fondest friends of this legislation cannot demonstrate that the measure we debate is not a treaty-making proposal. If there ever was a time when this august body should hold close to the constitutional fathers, these are the days. I refuse to compromise the treaty-making power of the United States Senate. I will not give an inch.

Mr. HARRISON. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram addressed to the Senator from Kentucky [Mr. BARKLEY] and me from Frank Graham, O. C. Carmichael, and Frank Ahlgren, representing the Southern Council on International Relations. In this telegram we are advised that the council today voted unanimously urging Congress to renew without change the Trade Agreements Act.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NASHVILLE, TENN., *March 29, 1940.*

Hon. PAT HARRISON,
Hon. ALBEN BARKLEY,
United States Senate:

We, Conference of Southern Council on International Relations, composed of 500 members of religious, business, professional, agricultural, industrial, and educational representatives of the South, in a conference here today, voted unanimously to urge Congress to renew Trade Agreements Act as it now exists and in conformity with Secretary Hull's program. Regards.

FRANK GRAHAM,
Conference Chairman.
O. C. CARMICHAEL,
Chairman of Conference Committee.
FRANK AHLGREN,
Editor, the Commercial Appeal,
Chairman, Subcommittee on Trade Agreements.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1759) granting the consent of Congress to the States of Montana, North Dakota, and Wyoming to negotiate and enter into a compact or agreement for division of the waters of the Yellowstone River, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. WHITE of Idaho, Mr. HILL, and Mr. HAWKS were appointed managers on the part of the House at the conference.

JAPANESE-AMERICAN RELATIONS

Mr. WALSH. Mr. President, in all discussions of the subject of Japanese-American relations I am always disposed to assume that there is an underlying desire on both sides to maintain friendly relations and mutual good will. I have had frequent occasion to point out that whatever feelings of mistrust existed were attributable to lack of candor—perhaps I may use a stronger word, and say the secrecy that has been encountered.

When the Congress at the last session had under consideration the Navy's plan for harbor improvements at the island of Guam, objection was raised on the ground that to do so would tend to give offense to Japan and impair our friendly relations with that nation. I then had occasion to call attention to the secrecy maintained by Japan in reference to her administration of the mandate islands in the Pacific under her jurisdiction. I pointed also to Japan's unwillingness, since the expiration of the naval limitation treaties, to exchange with us information with reference to naval plans and naval expansion programs.

Recently a Japanese report to the League of Nations on the administration of the mandate islands in the Pacific near Guam has been made public. The information contained in this report, and its relation to the naval problem are discussed in an editorial which was published in the Washington (D. C.) Star, and which I ask to have printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star of March 26, 1940]

JAPAN'S LITTLE JOKE

Japan's belated report on her administration of the mandate islands in the Pacific should prove enlightening—and altogether embarrassing—for those in Congress who were responsible for disapproving the Navy's plans for improvement of the harbor at Guam, our small but strategically important insular possession near the mandate groups. It now appears that while the critics of the Guam project have been expressing fears that harbor improvements at the island might offend Japan, the Japanese have been having a secret little joke at our expense. They have been very busy with some extensive harbor improvements of their own right in the vicinity of our island outpost—with utter unconcern as to whether Uncle Sam would like it or not. While anti-American elements in Japan were viewing with what must have been mock alarm our Navy's plans for dredging coral reefs from Guam's waters, "because Guam is less than 1,500 miles from Japan," Japanese engineers, under cover of strictest secrecy, were dredging a harbor and building a pier at Saipan, about 150 miles north of Guam. Other "harbor improvements" are under way or planned, according to Japan's report for 1938 to the League of Nations, a copy of which has just reached the State Department here.

We will have to take Japan's word for it that the improvements are for commercial purposes. No American is permitted to visit any of the more than 600 islands in the mandate groups. Strangers are not wanted there. The report showed that only 12 foreigners visited the islands in 1938, and none was an American. It will be recalled that only last year, when a fishing boat from Saipan was wrecked at Guam, the Japanese refused to permit an American vessel to return the survivors to Saipan. Instead, the American ship was met at sea by a boat from Saipan.

The report was especially significant by reason of an omission. Although the 1937 report stated specifically that no fortifications were being constructed on the islands, there was no such assurance in the present statement, although it is contended here that Japan is obliged to refrain from fortifying them. Whether Japan might feel offended or not, she should be required to give this assurance without further delay. Her report is incomplete without it. And until a complete report is filed, Japan is in no position to protest about any open-and-above-board harbor improvements or even fortifications that we should wish to undertake at Guam.

Mr. WALSH. In addition to the information set forth in this editorial, the Japanese report indicates that a service of "air transportation, of mails and official documents, etc., between Japan and Saipan and Palau" was initiated in December 1938. I regret that this apparent lack of frankness on the part of Japan, and the fact that no American is permitted to visit any of the more than 600 islands over which Japan has only a mandate control under the League of Nations, are undoubtedly hindering the friendly relations and mutual good will which all peace-loving Americans earnestly desire to exist between the two nations.

Recently, I was asked to give a statement for publication in Japanese newspapers indicating what I believe would contribute to the maintenance of friendly relations between Japan and the United States. I ask to have it printed as part of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

It is to be taken for granted that the peoples of the United States and of Japan sincerely desire the maintenance of friendly relations and mutual good will. Neither nation, I am confident, has any ulterior designs upon the other.

In my opinion, nothing will contribute more, at the present juncture, to this desirable objective than exercise by each nation of the utmost frankness and candor in dealing with the other. If each nation can be brought to the realization that the other entertained no hidden purposes or political secrets, not only with respect to its relations with the other and with the world at large, but even with respect to their internal policies for the promotion of the general welfare of their peoples, it would contribute immensely toward maintenance of an unmistakable attitude of good will, and secure, to both countries, peace and prosperity.

Both Japan and the United States will serve the best interests of their peoples and promote the peace of the world by sincerely living up to the admonition of George Washington in his Farewell Address when he said:

"Observe good faith and justice toward all nations; cultivate peace and harmony. * * * Nothing is more essential than that permanent, inveterate antipathies against particular nations, and passionate attachment for others, should be excluded; and that in place of them just and amicable feelings toward all should be cultivated."

EXECUTIVE SESSION

Mr. McKELLAR. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting a

convention and sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDENT pro tempore. If there be no further reports of committees, the clerk will state the nominations on the Executive Calendar.

DIPLOMATIC SERVICE

The legislative clerk read the nomination of Hugh Gladney Grant to be Envoy Extraordinary and Minister Plenipotentiary to Thailand.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

POSTMASTER—NOMINATION PASSED OVER

The legislative clerk read the nomination of Dorothy B. Keeling to be postmaster at Camp Taylor, Ky., which had been previously passed over.

Mr. McKELLAR. I ask that this nomination be again passed over.

The PRESIDENT pro tempore. Without objection, the nomination will be again passed over.

POSTMASTERS

Mr. McKELLAR. I ask that the remaining nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered.

That concludes the calendar.

LEGISLATIVE SESSION

Mr. BARKLEY. I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

GOLDEN GATE INTERNATIONAL EXPOSITION AT SAN FRANCISCO

Mr. JOHNSON of California. Mr. President, I ask unanimous consent for the present consideration of the joint resolution for the continuation of the San Francisco Exposition. It has been 3 weeks since the joint resolution was favorably reported by the Foreign Relations Committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 200) to provide for participation of the United States in the Golden Gate International Exposition at San Francisco in 1940, to continue the powers and duties of the United States Golden Gate International Exposition Commission, and for other purposes, which had been reported from the Committee on Foreign Relations with amendments.

The amendments were, on page 2, line 22, after the word "participating", to strike out "foreign"; in the same line, after the word "nations", to insert "under the administration of the Commission"; and, on page 3, line 1, after the words "sum of", to strike out "$250,000" and insert "$50,000", so as to make the joint resolution read:

Resolved, etc., That in order that the United States may continue its participation in the Golden Gate International Exposition at San Francisco, Calif., in 1940, the joint resolution entitled "Joint resolution providing for the participation of the United States in the world's fair to be held by the San Francisco Bay Exposition, Inc., in the city of San Francisco during the year 1939, and for other purposes," approved July 9, 1937, as amended by this joint resolution, is extended and made applicable to the continuance of the participation of the United States in such exposition in 1940 in the same manner and to the same extent and for the same purposes as originally provided in such joint resolution of July 9, 1937.

SEC. 2. Section 4 (relating to the powers and duties of the United States Golden Gate International Exposition Commission) of such joint resolution of July 9, 1937, is amended by adding at the end thereof the following paragraphs:

"(f) To produce (whether through a governmental agency or otherwise) and sell engravings, etchings, or other reproductions not prohibited by law, to the extent authorized by the Secretary of the Treasury, and souvenir books descriptive of the functions of the Federal Government. All proceeds from the sale of these articles shall be deposited to the credit of the appropriations made for carrying into effect the provisions of this joint resolution.

"(g) To erect, rehabilitate, maintain, and operate buildings for use by participating nations under the administration of the Commission and to represent such participants in all dealings with the San Francisco Bay Exposition, Inc. For the purposes of this paragraph there is authorized to be appropriated the sum of $50,000."

SEC. 3. Section 6 of such joint resolution of July 9, 1937, is amended by adding at the end thereof the following sentence: "Section 3709 of the Revised Statutes shall not apply to any purchase or service rendered for the Commission when the aggregate amount involved does not exceed $500."

SEC. 4. The second proviso of the first paragraph of section 7 of such joint resolution of July 9, 1937, is amended to read as follows: "*Provided further*, That the Commission may, if it deems it desirable and is in the public interest, transfer, with or without consideration, the title to the Federal Exhibits Building or Buildings or other Commission-owned property to the city and county of San Francisco or to any Federal, State, or local governmental agency."

SEC. 5. In addition to the sum of $1,500,000 authorized by such joint resolution of July 9, 1937, to be appropriated for the participation of the United States in the Golden Gate International Exposition and appropriated by the Third Deficiency Appropriation Act, fiscal year 1937, there is hereby authorized to be appropriated the sum of $250,000 for participation in 1940.

SEC. 6. The act entitled "An act to authorize the United States Golden Gate International Exposition Commission to produce and sell certain articles, and for other purposes," approved June 15, 1938, is hereby repealed.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

RECESS TO MONDAY

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate took a recess until Monday, April 1, 1940, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 29 (legislative day of March 4), 1940

DIPLOMATIC AND FOREIGN SERVICE

The following-named persons for appointment as Foreign Service officers, unclassified, vice consuls of career, and secretaries in the Diplomatic Service of the United States of America:

Donald B. Calder, of New York.
Lewis E. Gleeck, Jr., of Illinois.
Clark E. Husted, Jr., of Ohio.
Richard A. Johnson, of Illinois.
Richard E. Keresey, Jr., of New Jersey.
M. Gordon Knox, of Maryland.
Alfred H. Lovell, Jr., of Michigan.
Lee D. Randall, of Illinois.
Byron B. Snyder, of California.
Wallace W. Stuart, of Tennessee.
Joseph J. Wagner, of New York.

DEPARTMENT OF JUSTICE

Matthew F. McGuire, of Massachusetts, to be the Assistant to the Attorney General, vice Edward G. Kemp, resigned.

COMMISSIONER OF THE DISTRICT OF COLUMBIA

John Russell Young, of the District of Columbia, to be a Commissioner of the District of Columbia for a term of three years and until his successor is appointed and qualified, vice George E. Allen, resigned.

COAST GUARD OF THE UNITED STATES

Superintendent of Lighthouses Walter George Will to be a commander in the Coast Guard of the United States, to rank as such from December 1, 1939.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

TO ADJUTANT GENERAL'S DEPARTMENT

Maj. Stewart Franklin Miller, Field Artillery, with rank from October 1, 1935.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 29 (legislative day of March 4), 1940

DIPLOMATIC SERVICE

Hugh Gladney Grant, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Thailand.

POSTMASTERS

CALIFORNIA

Fred D. Wilder, Angels Camp.
Francis P. O'Brien, Belmont.
Purley O. Van Deren, Broderick.
Floyd F. Howard, Courtland.
Valente F. Dolcini, Davis.
Richard J. Homan, Encinitas.
James A. Lee, Glendora.
Lena M. Burris, Meridian.
Elizabeth M. Taylor, Tulelake.
Genevieve A. King, Winton.
Robert H. DeWitt, Jr., Yreka.

GEORGIA

Thomas W. Dalton, Alto.
Joseph D. Long, Bremen.
Charles L. Adair, Comer.
John Marvin Gillespie, Demorest.
Thomas M. Carson, Lavonia.
Clifton O. Lloyd, Lindale.
William A. Pattillo, Macon.
Irene W. Field, Monroe.
Wilbur N. Harwell, Oxford.
Olen N. Merritt, Ringgold.
Etta Sneed Arnall, Senoia.

ILLINOIS

Jacob Feldman, Batavia.
John W. Rettberg, Divernon.
Harold F. Kuettner, Dundee.
Howard J. Hall, Elburn.
Dorothy A. O'Donnell, Grafton.
Walter T. Smith, Havana.
Edwin C. F. Braun, Lebanon.
John W. Norris, Washington.

KENTUCKY

J. Edgar Moore, Berea.
Walter Clayton Thomason, Georgetown.

MARYLAND

Lena S. Townsend, Girdletree.
Katherine G. O'Donnell, Mountain Lake Park.

MONTANA

John A. Manix, Augusta.
Edgar L. Bowers, Culbertson.
Ralph Drew, Somers.

NEW MEXICO

Helen Anna Childers, Jal.

SOUTH CAROLINA

Marion R. Mayfield, Denmark.

TEXAS

Thomas Aaron Downing, Caddo.
Roberta M. Isom, Carrollton.
Edna Martin, Charlotte.
Guy L. Fellmy, Dickens.
Harry L. Humble, Groesbeck.
Clyde T. Martin, Hubbard.
Clarence G. White, Natalia.
Joseph Marecek, Rowena.
William Matthew Burnett, San Marcos.
Annie I. Hackney, Sunset Heights.
Emma S. Vick, Valentine.

VIRGINIA

Lewis N. Glover, Berryville.

WYOMING

Franklin P. Nelson, Evanston.

HOUSE OF REPRESENTATIVES

FRIDAY, MARCH 29, 1940

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou Son of God, our Saviour and Redeemer, be patient with our deficiencies; woo all unbrotherliness from our hearts and forgive us in the plentitude of Thy love and mercy; lead us to repentance that Thy very word may have breath in human hands and deeds. Hasten the day, dear Lord, when men shall learn that right and not might, that character and not efficiency, that Christ and not Caesar shall rule; and by these both men and nations are to live. O fill us with one pursuit which shall never lose its enchantment; one task that shall always yield new and soul-deep satisfactions; to deal justly, love mercy, and walk humbly with God. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had agreed without amendment to a concurrent resolution of the House of the following title:

H. Con. Res. 51. Concurrent resolution to extend the time for the filing of the report of the Joint Committee on Forestry.

The message also announced that the Vice President had appointed Mr. BARKLEY and Mr. GIBSON members of the Joint Select Committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of Executive papers in the following departments and agencies:

1. Department of Agriculture.
2. Department of Commerce.
3. Department of the Interior.
4. Department of Justice.
5. Department of Labor.
6. Department of the Navy.
7. Department of the Treasury.
8. Department of War.
9. Post Office Department.
10. Federal Security Agency.
11. Federal Works Agency.
12. Government Printing Office.

"I AM AN AMERICAN"

Mr. LELAND M. FORD. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. LELAND M. FORD]?

There was no objection.

Mr. LELAND M. FORD. Mr. Speaker, I am speaking this morning also for my friend and colleague, the gentleman from California [Mr. SHEPPARD], and what I shall say also has the approval of the majority leader, the gentleman from Texas [Mr. RAYBURN], and the minority leader, the gentleman from Massachusetts [Mr. MARTIN], and Speaker BANKHEAD. I am speaking in connection with the "I Am an American" citizenship celebration and I want to draw particular attention to a short radio address by Edward Arnold, vice president of the Screen Actors' Guild, over the N. B. C., on the creed, which was written by Benjamin E. Neal.

This creed should guide and inspire the young voters of this country with a real ideal and understanding of Americanism.

The radio address and creed follow:

RADIO ADDRESS BY EDWARD ARNOLD

In this period of American history, I think it is a fine thing that men and women of good will, regardless of social, political, or religious differences, can find and stand on common American ground.

We may differ as to what we consider the best thing for our country but all true Americans agree on certain fundamentals.

To encourage appreciation of the many liberties and the unequaled benefits of American citizenship, is the purpose back of the "I Am an American" citizenship celebration.

In the brief time allotted me, I can do no finer thing than read to you the creed "I Am an American," which climaxes the annual celebration in honor of 21-year-old young Americans. The creed, written by Ben Neal, founder of the movement, expresses a high American ideal—I am an American.

I AM AN AMERICAN

(By Benjamin E. Neal)

I am an American.
The Golden Rule is my rule.
In humility and with gratitude to Almighty God,
I acknowledge my undying debt
To the founding fathers
Who left me a priceless heritage
Which now is my responsibility.
With steadfast loyalty
I will uphold the Constitution
And the Bill of Rights.
I will treasure my birthright
Of American ideals.
I will place moral integrity
Above worldly possessions.
Problems of interest to my country
Shall be of interest to me.
I will count my right of suffrage
To be a sacred trust,
And I will diligently strive
To prove worthy of that trust.
I will give my full support
To upright public servants.
But those with unclean hands,
I will firmly oppose.
Each obligation that comes to me
As a true American,
I will discharge with honor.
My heart is in America
And America is in my heart.
I am an American.

[Here the gavel fell.]

Mr. LELAND M. FORD. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein the short radio address referred to and the creed.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. LELAND M. FORD]?

There was no objection.

EXTENSION OF REMARKS

Mr. SPRINGER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a brief editorial appearing in the Bloch newspapers.

The SPEAKER. Is there objection to the request of the gentleman from Indiana [Mr. SPRINGER]?

There was no objection.

Mr. AUGUST H. ANDRESEN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an article which appeared in the National Grange Monthly.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota [Mr. AUGUST H. ANDRESEN]?

There was no objection.

CARL SCHURZ

Mr. BOLLES. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin [Mr. BOLLES]?

There was no objection.

Mr. BOLLES. Mr. Speaker, Napoleon Bonaparte taught Europe a lesson in possibility of individual action which has never been forgotten. It was Napoleon who opened the door wide enough to show to the common people of Europe the incandescent rays of the lamp of liberty shining for all humankind. Himself an autocrat, dominated by vaulting ambition, treading like a giant among pygmies, crushing thrones, heaping coals of fire on the ashen breasts of dying despotisms, putting the washerwoman of yesterday at the head of a social regime, making marshals out of peasant soldiers, tossing dynasties into the discard, showing to the astonished world that rulers playing clown under the false colors of a right by divinity were merely plaster casts, this iconoclastic corporal from Corsica changed the manner of human thought, gave pinions to heretofore suppressed ideas of a government of the people, and liberty of conscience and worship.

Had it not been for Napoleon there might never have been a revolution in Germany in 1848 and 1849, and the United States of America would have been deprived of the enrichment of its literature and politics and its material wealth by those refugees who fled from tyranny and the black threat of the gibbet and prison cell. From the day the Little Corporal went across the seas to St. Helena to the hour of Bismarck and his iron policy, Germany was in a state of flux politically. Its masses had learned that it might have hope of liberty; that there was such a thing as government by the people; and that the term "citizen" meant more than a pawn with which kings might play. It was in this atmosphere within a castle's wall, where his grandfather lived as a retainer of a petty prince, that Carl Schurz, destined to be the greatest American citizen of German birth, was born March 2, 1829.

Carl Schurz came from a background of peasantry; he became a student with talent, he had an ambition to write history—the history of the lowly and abased. In him was something of the spirit which Victor Hugo gives Marius in Les Miserables; the spirit that has stirred every patriot heart since the beginning of time into a protest against tyranny. At 19 he was a revolutionist against the hypocrisy, the falsehood, and the ambition of Frederick William IV. It was an evil time. Men were murdered in the streets of Berlin. The civilians unloaded the bodies in the public square and called for the King to look. They made him take off his hat to the citizen assemblage. It was prophetic of what some day would come to the world when dictators would remove the hat to the people and bow in acquiescence to the will which has no master but its own.

But the promises were not kept. The King lied again. He had been forced by that intriguer for absolutism, Metternich, to rescind every act that in any manner gave emphasis to the power of the people and inspiration of hope for a government in which there was a mass voice instead of one. Metternich was unhorsed but Frederick William IV still stalked in panoply among his subjects. Carl Schurz, a student, was one of the orators of the time. At 19 he was able to sway great assemblages and gave promise of the day when with that same voice in a new and adopted country he would fight the battle for human freedom and help write the epilogue to slavery.

But it was to no definite purpose. The revolution failed. In its failure, in the black hour when there was no longer hope, even then, Schurz, the youth, still said:

I tried indeed to lift myself that so great, so just, so sacred a cause as that of German unity and free government could not possibly fail.

Carl Schurz in his zeal did heroic things. Again I turn to Les Miserables and the escape of Jean Valjean carrying the wounded Marius on his shoulders through the cloaca of Paris and find something of the same heroic, desperate fatalism in the escape of Carl Schurz from the castle where he was a prisoner, and again when he rescued his teacher and guide from prison.

At 20 Schurz's character was formed. In all this time he had one pattern—that was America, the Republic of the United States. It is not material for this address to tell the story of the years between the escape from Germany and his final determination to reach America, or how at 25 he stepped on the soil of the Nation in which he was so soon to be a great national figure.

He came to Watertown, Wis., among relatives. Naturally, he was interested in politics and policies. His friends and relatives at Watertown were Democrats. It was a common understanding that the Democratic Party was more kind to foreign peoples than the Whigs. There was no Republican Party. But he was an uncompromising abolitionist. To him the idea of a free nation existing with slavery in any part of it was anathema. He was induced to make speeches in German. In 1856, when Fremont was the Republican standard bearer, he blazed a path of righteous indignation over slavery

as an institution in a score of speeches in German in the Wisconsin and Minnesota German settlements.

A year later, illy clad, trousers just over his boot tops, sleeves shiny, a picture of poverty as he was, he stood on the afternoon of Thursday, September 3, 1857, before the Republican State convention at Madison the nominee of the Republican Party of Wisconsin for Lieutenant Governor. From the Janesville Daily Gazette of that time I quote a few words of his speech:

"I am of that class of Germans who know that they owe a debt of honor to the old and a debt of gratitude to their new fatherland, and who, having fought in the battles of freedom in the old country, are aware that they stand here on the last bulwark of liberty in the world and are ready to defend it like the bravest of your own."

As Mr. Schurz concluded his eloquent remarks the convention arose as one man and gave three thundering cheers for Carl Schurz.

Thus came Carl Schurz into the arena of American political life. He began in the State of Wisconsin, where he is still honored. In 2 years he was the most asked-for orator of the time. He went down to Quincy, Ill., and heard Abraham Lincoln debate with Stephen A. Douglas. He spoke to great audiences in a half hundred cities. He was no tergiversator and no mincer of words. He had no tricks of story or banter. He was serious and earnest. He had overcome his struggle with the English language, and his first speech in English was The Irrepressible Conflict. He was prophetic in his belief that if slavery was not immediately removed as an issue by its own death there would be arbitrament with arms and in blood. The student of history finds here much to interest.

Honors were heaped upon him. He was a member of the Republican National Committee supporting Lincoln. He was a delegate to conventions. He had mastered English so well that he had all the idioms of the language, all the homely phrases of the American, all the accent which might have been excellent in a life long Yankee. He was a living American; why should he not live in its speech? He piled climax upon climax with inexorable logic and in either; his mother tongue was equally facile. He was an idealist. He had the honesty of fidelity, the courage of a righteous passion for truth, and a conviction that justice must eventually prevail.

He went to Spain as Minister; he came back and commanded a brigade under his old '48 compatriot, Franz Sigel. He was at Bull Run and Chancellorsville; he went with Howard to Chattanooga; he marched with Sherman to the sea, and north when Johnson surrendered. He returned to private life and as an editor of the Westliche Post, of St. Louis, and so called attention to his qualities that he was elected to the United States Senate.

He was still a revolutionist. He was not a reformer, as we know reformers. But 14 years before we had the corruption of Credit Mobilier and the scandals of the Belknap war administration he had stood before an audience in Albany Hall in Milwaukee and spoken of political corruption as no man ever had before. What he said then may apply today. It is as sound in 1940 as it was in 1858:

And I do not hesitate to prophesy that if the Republican Party should be unfortunate enough to entangle itself in the same network of corruption with which the Democracy is choking itself to death, the people will strike it down with the same crushing verdict under which Hunkerism is sinking now. And in that case, I confess my heart would behold with grief and sorrow its degradation, but it would have no tears for its defeat. * * * It is true we cannot expect every Republican to be a perfect angel. Even when advocating the purest principles, a man will not at once cast off all the frailties of human nature; and so it may happen, and I am sorry to say it has happened, that some Republicans in the discharge of official duties fell victims to severe temptations. But one thing we can do, we must do, and we shall do. We must not hesitate to denounce every member of our own party who prostitutes his trust and power by dishonest and corrupt transactions as a contemptible villain. And not only that, we must consider and denounce and treat him as a traitor to his party. What we can and must do is to make all dishonest and corrupt practices high treason, and to take every such traitor and pitch him overboard; to condemn him to political death without regard to person or station, without the benefit of clergy.

That was Carl Schurz. He was a revolutionist. He did not believe in opportunism. He started out as a sound-money man and was never led astray by the chimera of a debased currency. The "isms" and political exigencies that by statutory enactment would redeem mankind from whatever condition he found himself had no advocate and no attorney in Carl Schurz. He defied the Republican Party on many of its legislative acts. He was perhaps the original independent. Never in all this time did he labor for his own aggrandizement. He was punished for this by failure of reelection to the Senate. He was the father of the civil service in the National Government. The time had come when every clerkship and every janitor job was not to be given as political requitement.

He went to Europe and visited Bismarck. He was a welcome guest in the land from which, with a price on his head, he had been exiled by choice to America. There must have been a great satisfaction in sitting with the iron Chancelor and discussing Germany, its past, its present, and its future.

Faithful among the faithless, honest among the dishonest, seeking nothing that did not come to him from the incentive of other minds than himself, he returned to hold the portfolio of Secretary of the Interior under President Hayes. It was the last public office for him. He became wholly American; he surrendered completely to his adopted nationality. He died poor. He had no time to enrich himself. America must be thankful for the revolt of 1848. It gave to us a great American, a great people. It gave to Germany a great German. It gave to the world a brilliant example of a statesman.

SPECIAL COMMITTEE TO INVESTIGATE UN-AMERICAN ACTIVITIES

Mr. DIES. Mr. Speaker, by direction of the Special Committee to Investigate Un-American Activities, I present a privileged report (Rept. 1900), and send it to the Clerk's desk and ask that the Clerk read it.

The Clerk read as follows:

The Special Committee to Investigate Un-American Activities authorized by the House of Representatives by House Resolution 282, Seventy-fifth Congress, and continued by House Resolution 26, Seventy-sixth Congress, and House Resolution 321, Seventy-sixth Congress, caused to be issued a subpena directing one James H. Dolsen to appear before the said Special Committee to Investigate Un-American Activities and to produce all records regarding Communist Party and activities; the subpena being set forth in words and figures as follows:

By authority of the House of Representatives of the Congress of the United States of America, to the Sergeant at Arms, or his special messenger: You are hereby commanded to summon James H. Dolsen, 1413 Fifth Avenue, Pittsburgh, Pa., to be and appear before the Un-American Activities Special Committee of the House of Representatives of the United States, of which the Honorable MARTIN DIES, of Texas, is chairman, and produce all records regarding Communist Party and activities in their chamber in the city of Washington, forthwith, then and there to testify touching matter of inquiry committed to said committee; and he is not to depart without leave of said committee. Herein fail not, and make return of this summons. Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 22d day of March 1940. W. B. Bankhead, Speaker. Attest: South Trimble, Clerk.

Said subpena was on March 23, 1940, served upon the said James H. Dolsen by Robert B. Barker, an employee of the said Special Committee to Investigate Un-American Activities and duly authorized to serve the said subpena. The return of a service by the said Robert B. Barker being endorsed thereon which is set forth in words and figures as follows:

Subpena for James H. Dolsen (duces tecum) before the Committee on the Un-American Activities, served March 23, 1940, at 1413 Fifth Avenue, Pittsburgh, Pa., on James Hulse Dolsen named herein. Robert B. Barker, Kenneth Romney, Sergeant at Arms, House of Representatives.

Said James H. Dolsen, pursuant to said subpena and in compliance therewith, appeared before the said committee to give such testimony and to produce such records as required under and by virtue of House Resolution 282, Seventy-fifth Congress, and continued by House Resolution 26, Seventy-sixth Congress, and House Resolution 321, Seventy-sixth Congress.

Said James H. Dolsen, after being duly sworn by the chairman, gave testimony before the subcommittee of the said committee on the 25th day of March 1940, concerning certain matters and things, but refused to give testimony and to answer certain questions propounded to him on the following matters and things:

"The CHAIRMAN. The committee is sitting as a subcommittee composed of Mr. DEMPSEY, the chairman, and Mr. THOMAS. Ask your question.

"Mr. BARKER. Mr. Dolsen, do you know Sonia Strauss?
"Mr. DOLSEN. I know Sonia Strauss.
"Mr. BARKER. Is she a Communist?
"Mr. DOLSEN. I decline to answer that question.
"The CHAIRMAN. Ask the next question.
"Mr. BARKER. Do you know Joseph Chandler?
"The CHAIRMAN. The Chair is requiring you to answer these questions.
"Mr. DOLSEN. I understand.
"The CHAIRMAN. And you decline to answer them?
"Mr. DOLSEN. That is right.
"The CHAIRMAN. Would you answer this question: Did you ever sit in a Communist meeting with Sonia Strauss?
"Mr. DOLSEN. I decline to answer that question.
"The CHAIRMAN. The Chair requires you to answer the question, and you decline?
"Mr. DOLSEN. That is right." (March 25, 1940. Record, p. 33.)
"Mr. BARKER. Do you know Alec Steinberg?
"Mr. DOLSEN. I do.
"Mr. BARKER. He is chairman of one of the units of the Communist Party in Allegheny County, is he not?
"Mr. DOLSEN. Not that I know of.
"Mr. BARKER. Is he a Communist?
"Mr. DOLSEN. I decline to state.
"Mr. BARKER. You decline to answer?
"Mr. DOLSEN. Yes.
"The CHAIRMAN. The Chair requires you to answer the question, and you decline to answer it?
"Mr. DOLSEN. That is right." (March 25, 1940. Record, p. 34.)
"Mr. BARKER. Do you know who the chairmen are of the various units of the Communist Party in Allegheny County?
"Mr. DOLSEN. I know in some individual cases who the chairmen are.
"Mr. BARKER. Will you state the ones you do know?
"Mr. DOLSEN. If the committee please, I decline to answer that kind of a question, on the same basis as I declined the others.
"The CHAIRMAN. The committee understands that you decline to state who the chairmen are, the ones that you know in the various units of the Communist Party in Allegheny County.
"Mr. DOLSEN. That is right.
"The CHAIRMAN. Do you also decline to answer the question as to who the section organizers are?
"Mr. DOLSEN. That is right also.
"The CHAIRMAN. Do you know who they are?
"Mr. DOLSEN. In some cases I do.
"The CHAIRMAN. You decline to give the committee the names of any of them?
"Mr. DOLSEN. That is right." (March 25, 1940. Record, p. 42.)
"The CHAIRMAN. The Chair has considered that very carefully. Here is the case of a member of the Communist Party using the name of the President of the United States, using that name as a party name, apparently with the consent of the Communist Party, or, at least, without any objection, and the Chair thinks that it is material to find out who did that, because, manifestly, if that practice is permitted, it is very much against public interest. The Chair directs you to answer that question as to the name of the person who gave the name Franklin D. Roosevelt for party purposes.
"Mr. DOLSEN. Well, I will have to state to the committee that, on the previous grounds, I decline to give that information." (March 25, 1940. Record, p. 47.)

Because of the foregoing, the said subcommittee of the said Committee to Investigate Un-American Activities has been deprived of the testimony of said James H. Dolsen relative to the subject matter which, under House Resolution 282, Seventy-fifth Congress, and continued by House Resolution 26, Seventy-sixth Congress, and House Resolution 321, Seventy-sixth Congress, said subcommittee of the Special Committee to Investigate Un-American Activities was instructed to investigate; and the willful and deliberate refusal of the witness to testify further as hereinbefore set forth is a violation of the subpena under which the witness had previously appeared and testified, and his willful refusal to testify further without having been first excused as a witness deprives the subcommittee of the said Committee to Investigate Un-American Activities of necessary and pertinent testimony and places the said witness in contempt of the House of Representatives of the United States.

The SPEAKER. The report just read is ordered printed. The Clerk will report the resolution.

The Clerk read as follows:

House Resolution 446

Resolved, That the Speaker of the House of Representatives certify the report of the House of Representatives Committee to Investigate Un-American Activities as to the willful and deliberate refusal of James H. Dolsen to testify before a subcommittee of the said Committee to Investigate Un-American Activities, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that the said James H. Dolsen may be proceeded against in the manner and form provided by law.

The SPEAKER. The question is on the resolution.

Mr. DUNN rose.

The SPEAKER. For what purpose does the gentleman from Pennsylvania rise?

Mr. DUNN. Mr. Speaker, am I in order in asking permission to say a few words at this time?

The SPEAKER. The gentleman from Texas [Mr. DIES], chairman of the committee, is in charge of the resolution. Does the gentleman from Texas yield to the gentleman from Pennsylvania?

Mr. DIES. Yield for what purpose?

Mr. DUNN. I wish to ask a few important questions.

Mr. DIES. I yield to the gentleman from Pennsylvania, Mr. Speaker.

Mr. DUNN. May I ask the gentleman from Texas, Is it not a fact that when Mr. Dolsen was interrogated he stated that he refused to answer because the Constitution did not compel him to do so?

Mr. DIES. He gave as one of the grounds of refusal, as I recall, constitutional grounds, but not whether or not it would tend to incriminate him. He refused to say that that was the ground for his refusal.

Mr. DUNN. I understand he did not say that, but is it not a fact he believed that by answering certain questions he would incriminate himself?

Mr. DIES. I specifically asked him if he refused to answer the question for fear that his answer might tend to incriminate him, and he said specifically that that was not the ground of his refusal.

Mr. DUNN. I will admit I was not present during the entire meeting, but when I was there I did not hear him make that statement.

Mr. DIES. I may say to the gentleman that we do not require witnesses to answer questions where they state, and have some justification for their position, that the answers might tend to incriminate them.

Mr. DUNN. One more question: I was there when the man was asked many questions about whether he knew So-and-So to be a Communist, and he said "Yes" or "No." For example, I was brought into the picture.

Mr. DIES. No; I do not believe the gentleman was brought in.

Mr. DUNN. May I say that the investigator asked Mr. Dolsen if he knew Richard A. Lawry, a Burgess of Homestead. The reply was "West Homestead." The question was asked, "Is he a Communist?" and the answer was "No." The question was asked, "Was he ever a Communist?" and he said "No." Because of that statement this man, who has seven children, has lost his job.

Mr. DIES. The gentleman is speaking of Mr. Lawry?

Mr. DUNN. Yes.

Mr. DIES. The gentleman came to the committee and stated that Mr. Lawry was entitled to be heard. We told the gentleman that we would hear him instantly. He is now in Washington, and we are preparing to hear him.

Mr. DUNN. I thank the gentleman.

The SPEAKER. The question is on agreeing to the resolution offered by the gentleman from Texas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a radio address entitled "Women and Cancer" to be delivered by me this afternoon; also an address by Dr. Parran, the Surgeon General, on the same subject.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

GUAM

Mr. IZAC. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. IZAC. Mr. Speaker, I do not rise at this time to chide any of you because of your vote against the commercial development of Guam this spring, but I do believe I should call attention to the fact that a very able editorial appeared in the Washington Evening Star on the 26th of this month, 3 nights ago. It would do your heart good to see what the Japanese are doing just 150 miles away from Guam, not on an island that they own but on one of the mandated islands given them after the World War just for administration. We refuse to develop something that is a real asset of our own, an island that we really own and to which we have all proprietary rights, yet here Japan, 150 miles away, is developing an island commercially in exactly the same way we asked that our development of Guam take place, by the dredging of the harbor. I really believe that when this question comes up next year most of my colleagues will see fit to vote for it, and I sincerely hope they will. [Applause.]

Mr. Speaker, the editorial to which I have referred is as follows:

[From the Washington Evening Star of March 26, 1940]

JAPAN'S LITTLE JOKE

Japan's belated report on her administration of the mandate islands in the Pacific should prove enlightening—and altogether embarrassing—for those in Congress who were responsible for disapproving the Navy's plans for improvement of the harbor at Guam, our small but strategically important insular possession near the mandate groups. It now appears that while the critics of the Guam project have been expressing fears that harbor improvements at the island might offend Japan, the Japanese have been having a secret little joke at our expense. They have been very busy with some extensive harbor improvements of their own right in the vicinity of our island outpost—with utter unconcern as to whether Uncle Sam would like it or not. While anti-American elements in Japan were viewing with what must have been mock alarm our Navy's plans for dredging coral reefs from Guam's waters, "because Guam is less than 1,500 miles from Japan," Japanese engineers, under cover of strictest secrecy, were dredging a harbor and building a pier at Saipan, about 150 miles north of Guam. Other "harbor improvements" are under way or planned, according to Japan's report for 1938 to the League of Nations, a copy of which has just reached the State Department here.

We will have to take Japan's word for it that the improvements are for commercial purposes. No American is permitted to visit any of the more than 600 islands in the mandate groups. Strangers are not wanted there. The report showed that only 12 foreigners visited the islands in 1938 and none was an American. It will be recalled that only last year, when a fishing boat from Saipan was wrecked at Guam, the Japanese refused to permit an American vessel to return the survivors to Saipan. Instead, the American ship was met at sea by a boat from Saipan.

The report was especially significant by reason of an omission. Although the 1937 report stated specifically that no fortifications were being constructed on the islands there was no such assurance in the present statement, although it is contended here that Japan is obliged to refrain from fortifying them. Whether Japan might feel offended or not, she should be required to give this assurance without further delay. Her report is incomplete without it. And until a complete report is filed, Japan is in no position to protest about any open and aboveboard harbor improvements or even fortifications that we should wish to undertake at Guam.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and include therein the editorial to which I referred.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL COMMITTEE TO INVESTIGATE THE NATIONAL LABOR RELATIONS BOARD

Mr. SMITH of Virginia. Mr. Speaker, I ask unanimous consent that the Special Committee to Investigate the National Labor Relations Board may have until midnight tomorrow night to file an intermediate report.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

COMMITTEE ON MILITARY AFFAIRS

Mr. MAY. Mr. Speaker, I ask unanimous consent that the Committee on Military Affairs, or any subcommittee thereof, may be permitted to sit during the sessions of the House during the coming week.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. GROSS. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GROSS. Mr. Speaker, another cigar factory in my district has closed, throwing out of employment 100 employees. For every employee thrown out like this, about five people go on relief, or must find something else to do. I have a letter from an industrial man employing 600 people, who says, "Since I have been in business during 38 years, I have never felt less disposed to push ahead than I do now." This is all because the Labor Committee is on a sit-down strike, and refuses to take action and amend these laws.

The National Labor Relations Board has ordered certain cigar manufacturers in my district to pay back $33,000 to their employees. Just recently they ordered a cigar manufacturer to pay back $2,900, and everyone of the employees went back in his office the next day and laid their money down. [Applause.]

[Here the gavel fell.]

CONTESTED-ELECTION CASE—SCOTT AGAINST EATON

Mr. GAVAGAN. Mr. Speaker, by direction of the Committee on Elections No. 2, I call up House Resolution 427.

The clerk read as follows:

House Resolution 427

Resolved, That Byron N. Scott was not elected a Member from the Eighteenth Congressional District of the State of California to the House of Representatives at the general election held November 8, 1938; and

Resolved, That Thomas M. Eaton was elected a Member from the Eighteenth Congressional District of the State of California to the House of Representatives at the general election held on November 8, 1938.

Mr. GAVAGAN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1941

Mr. CALDWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 9109) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1941, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 2 hours, to be equally divided between the gentleman from Nebraska [Mr. STEFAN] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 9109, the District of Columbia appropriation bill, 1941, with Mr. THOMASON in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

Mr. CALDWELL. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, at the outset I want to acknowledge my appreciation to the members of the subcommittee who served with me on this bill. They gave unselfishly of their time and attention and in every way cooperated to the end that an act acceptable alike to the District and the Congress might be evolved. There was no suggestion of partisanship nor of serious disagreement in the committee. Although we expedited our work as much as was consistent with conditions, the committee gave very thorough consideration to every phase of the District budget.

SCOPE OF THE BILL

The bill embraces all regular annual appropriations chargeable to revenues of the District of Columbia, including the

permanent Federal contribution, and also appropriations on account of park areas under the jurisdiction of the National Park Service, the National Capital Park and Planning Commission, the Zoological Park, and for certain work being performed under the supervision of the Corps of Engineers.

APPROPRIATIONS AND ESTIMATES

The Budget estimates for the purposes contained in this bill will be found in detail beginning on page 911 of the 1941 Budget. In addition to these estimates additional supplemental estimates, which were contained in House Document 585 and House Document 668, were also considered by the committee. The original Budget and the supplemental estimates aggregated $49,609,418. The bill under consideration carries appropriations totaling $48,291,717, or a reduction, under the Budget estimates, of $1,317,701. The bill, however, is in excess of the 1940 appropriation by $222,510.

Summarizing the estimates and appropriations for 1941, classified by sources of revenue, it would be seen that the bill provides:

	Budget estimates, 1941	Amount in bill for 1941	Increase (+) or decrease (−), bill compared with Budget estimates
Payable from—			
Gasoline-tax fund	$4,940,150	$4,918,990	−$21,160
Water revenues	2,542,980	2,244,830	−298,150
General revenues derived from taxes on real estate, tangible property, public utilities, banks, etc	36,126,288	35,127,897	−998,391
U. S. Treasury	6,000,000	6,000,000	
Total, regular annual	49,609,418	48,291,717	−1,317,701

APPROPRIATIONS AND REVENUES

The total appropriated in this bill by the committee and chargeable to the general fund of the District of Columbia and the Federal contribution is $41,127,897. In addition there are other charges against the general fund contained in other appropriation bills, including deficiencies, judgments, and so forth, estimated at $1,310,203, and making a total estimated charge against the general fund for 1941 amounting to $42,438,100. The total general-fund revenues for the fiscal year 1941 are estimated to be $42,723,000. This leaves an estimated surplus for the fiscal year 1941 in the general fund of $284,900. However, it is estimated that there will be a deficit for the fiscal year 1940 amounting to $1,085,415, which, after deducting the probable surplus for the fiscal year 1941 amounting to $284,900, will leave a net deficit at the close of the fiscal year 1941 of $800,515, unless additional revenue is provided.

The total amount approved by the committee payable from the gasoline tax and motor-vehicle fund is $4,918,990. This fund is available only for use in connection with highway department and related expenditures. The estimated revenue available in the fund for 1941 is $4,987,388.

The committee has approved a total of $2,244,830 payable from the water fund of the District. This fund is available only for water department expenditures. The estimated revenue available in this fund for the fiscal year 1941 is $2,695,410. The committee has recommended in the bill a total of $2,244,830. If this amount is approved for the fiscal year 1941, there will remain in the fund at the close of that fiscal year the estimated sum of $450,580.

The estimated expenditures from trust funds, grants, and indefinite appropriations during the fiscal year 1941 amount to $3,873,021. This sum is $6,501,870 below the estimated expenditure of $10,375,691 for the fiscal year 1940. These expenditures are made under permanent law heretofore enacted by Congress and continue as such until modified or discontinued.

ADMINISTRATIVE PROMOTIONS

In accordance with the policy heretofore approved by the committee in its consideration of previous appropriation bills, and set forth in the committee report on the independent offices appropriation bill (H. Rept. 1515, 76th Cong.), the committee has eliminated all new money submitted in the estimates for within-grade promotions. The total amount eliminated in connection with this bill amounts to $47,820. The committee has also continued in the bill a provision contained in the current law which limits the administrative promotions which may be made from lapses to a total of $50,000 during the next fiscal year and provides that the amount which may be expended for reallocations shall not exceed $35,000.

PUBLIC WELFARE AND HEALTH INSTITUTIONS

The subcommittee made a personal inspection of each of the institutions coming under the jurisdiction of the Board of Public Welfare and also visited the two major hospitals—Gallinger Hospital and the Tuberculosis Sanatoria at Glendale, Md. A survey of several of the institutions which have been under severe criticism within the past few months was also made by a group of responsible citizens of Washington, who were asked to study and report as to the situation at these places. Also, a person experienced and skilled in the matter of social service and welfare conditions in general was asked to come to Washington and make a careful study of the situation. The Board of Public Welfare and the director were heard, and numerous citizens appeared in connection with these institutions. We are of the opinion that conditions should be improved at three of the institutions under the Board of Public Welfare. The recommendations, which will be discussed in more detail later, reflect the composite opinion of the various groups which have cooperated with the committee in its attempt to improve conditions at these institutions.

DEPARTMENT OF INSPECTIONS

In addition to the denial of funds for additional promotions in this office, the committee has disallowed $1,440 for a clerk in the electrical division. The committee is of the opinion that the existing clerical staff is adequate to take care of the work.

CARE OF DISTRICT BUILDINGS

For the care of buildings under the control and operation of the District the bill provides a total of $191,210, which is $56,070 in excess of the 1940 appropriation and $9,080 less than the Budget estimates. We have made a net reduction of $10,780 in the item for fuel, light, and power for the District buildings. The reduction of this amount will leave a total of $90,340 for the next fiscal year, which is $38,260 in excess of the 1940 appropriation.

BOARD OF TAX APPEALS

In recommending $14,040 for the Board of Tax Appeals, which is the amount of the current appropriation, I wish to call attention to the fact that this Board is composed of a single member without any considerable training and experience in matters of property valuation, who is called upon to review and adjust assessments fixed by the Board of Assessors, which has the experience, background, and information to do a better job than anyone else.

PUBLIC UTILITIES COMMISSION

There is recommended for this Commission an appropriation of $69,920, which is $500 less than the current appropriation and $4,280 below the Budget estimates.

CONTINGENT AND MISCELLANEOUS EXPENSES

For contingent and miscellaneous expenses for the District, such as printing and binding, postage, advertising, and so forth, the bill allows a total of $281,360, which is $34,779 below the 1940 appropriation and $4,949 under the Budget estimates.

PUBLIC LIBRARY

For the operation and maintenance of the Free Public Library the committee considered estimates totaling $792,670 and allowed appropriations amounting to $778,540, which is $230,950 more than the 1940 appropriation and $14,130 less than the Budget estimates. The substantial increase over the current appropriation is due almost entirely to the allowance of $200,000 for continuing construction of the new main library

building, for which an unexpended balance of $350,000 was made available in the current act. This second appropriation, which is recommended in the bill, will carry forward the project, to be constructed over a 3-year period, leaving a total of $568,000 unappropriated for completion of the project.

SEWERS

For the continuation of this work we recommend a total of $1,198,560, which is an increase of $65,760 over the 1940 appropriation and $55,350 below the Budget estimates. This reduction in the estimate is applied primarily to funds for the construction of sewers, including assessment and permit work in connection with such construction, the committee having recommended a cut of $25,000 in each item.

COLLECTION AND DISPOSAL OF REFUSE

A total of $1,502,180 is contained in the bill for the collection and disposal of refuse, which is $35,230 in excess of the current appropriation and $76,020 below the Budget estimates. We allowed increases in the estimates of $12,030 for street cleaning and snow removal and an increase of $24,000 over the current appropriation of $896,000 for the disposal of refuse, which includes the operation of two incinerators. These increases are provided to take care of the normal expansion of work due to the growth of the city.

We eliminated from the bill an estimate of $75,000 for the purchase of a site for a new high-temperature incinerator to be located somewhere in the northeast section of the city.

PUBLIC SCHOOLS

In the consideration of funds to be provided for the public schools the committee had before it estimates totaling $13,275,312. We recommend a total of $12,778,773, which represents a decrease of $590,385 under the 1940 appropriation and is $496,539 less than the Budget estimates.

For the salaries of administrative and supervisory officers the committee allowed $706,950, which is $17,147 in excess of the current appropriation and $800 less than the estimates. We denied $6,400 for the employment of two heads of vocational guidance, at $3,200 each, and transferred to this fund $5,600, the salary of one first assistant superintendent of community center and recreation activities.

We made a reduction of $8,800 in the estimate of $7,338,994 for teachers and librarians, the reduction being due to the allowance of additional funds under the industrial home school for the carrying out of an educational program under the direction of the head of that institution.

Under care of buildings and grounds additional funds have been requested in the estimates for personnel for the operation and maintenance of the Calvin Coolidge Senior High School and the Thomas Jefferson Senior High School, and the committee has recommended personnel which it considers sufficient to operate these two schools.

For the current year an appropriation of $312,500 was provided for fuel, light, and power, and at that time responsible officials urged that a total of $325,000 would be required. It is now estimated that during the current fiscal year a total of only $293,741 will be expended. In view of this fact we have allowed $300,000.

For contingent expenses there is allowed $155,000, which is $18,905 less than the Budget estimate and $5,000 in excess of the current appropriation.

The committee considered estimates totaling $313,843 for furniture and equipment, $4,800 being contained in House Document 668, which proposed that sum as an additional amount for completing the furnishing of the Banneker Junior High School. The committee has allowed $4,500 for this latter purpose and recommends a reduction of $19,043 in the original Budget estimate of $309,043.

A total of $476,585 was considered by the committee for repairs and improvements, including an estimate of $11,100 for repairs and improvements, and equipment for the health school on Thirteenth near Allison Street. For this latter purpose the committee has allowed $9,000.

During hearings on the bill the committee was advised that at the present time there are enrolled in the public schools of the District between 2,700 and 2,800 students who reside in nearby Maryland and Virginia, and that last year it cost about $265,000, computed on the basis of per pupil costs, to educate these children. This burden should not be borne by the taxpayers of the District, and we have inserted in the bill a corrective provision requiring the payment of tuition for such children. It should be pointed out, however, that this provision will not affect pupils now enrolled, but will prohibit future enrollment of children for free instruction and will gradually correct the situation over a period of years.

The building projects included in the bill, together with the limit of cost in each instance where such authorization is recommended, are as follows:

Building	Appropriation in the bill	Limit of cost
Syphax School	$95,000	$190,000
Junior high school in vicinity of 17th and Q Sts. SE	445,000	881,850
Vocational school to replace Abbott Vocational School	250,000	500,000
Preparation of plans and specifications for senior high school at 24th St. and Benning Rd. NE	20,000	900,000

In connection with the provision for the purchase of two building sites, the committee has recommended $40,000 instead of $47,000 as contained in the Budget. It is believed that the former sum will be adequate to acquire the land necessary for these purposes.

METROPOLITAN POLICE

A total of $3,306,480 was considered in the Budget estimates for the salaries and expenses of the Metropolitan Police force for the fiscal year 1941. The bill carries $3,301,785, which is $85,850 less than the current appropriation and $4,695 below the estimates.

We deducted $2,000 from the estimate of $18,000 for repairs and improvements to police stations, $1,000 from the estimate of $77,150 for contingent expenses, and $1,700 from the estimate of $66,700 for the purchase of motor vehicles.

FIRE DEPARTMENT

In recommending a total appropriation of $2,353,095 for this activity the committee has provided funds which are $29,895 less than the 1940 appropriation and $11,910 less than the Budget estimates, such reductions being made in operation and maintenance items, and due primarily to the consolidation of stations made pursuant to the provisions of the 1940 District of Columbia Appropriation Act.

HEALTH DEPARTMENT

For the Health Department including the Tuberculosis Sanatoria and the Gallinger Hospital, there is allowed a total of $2,540,600, which is $31,740 more than the 1940 appropriation and $33,600 less than the Budget estimates.

For medical services there is allowed $399,870, which is $2,990 less than the Budget estimates and a like amount under the 1940 appropriation. Denial of funds for step-ups, the disallowance of one nurse at $1,800 per annum, and $250 for medical supplies for the new southwest health center account for the reductions in this item.

We recommend $20,000 for furnishing and equipping the new southwest health center instead of $21,000, as proposed by the Budget, and have eliminated the Budget proposal for $13,000 to be used to purchase a site for a health center in southwest Washington. The committee is of the opinion that this proposal should be deferred until the school-replacement program is undertaken, at which time one or more sites ideally located for this purpose will be available without additional cost to the District.

The committee recommend an appropriation of $638,960 for the operation and maintenance of Tuberculosis Sanatoria, which is $11,592 in excess of the 1940 appropriation and $3,920 less than the Budget estimates. An increase of $37,592 over the current appropriation is allowed for personal services in order to place employees in the nursing and dietetic departments on a 44-hour week. Such employees are at present on an average of 49½ or 50 to 50 or 56 hour week.

For personal services at Gallinger Hospital there is allowed $675,000, which is $75,660 in excess of the 1940 appropriation and $12,840 less than the Budget estimates. Increases allowed by the committee will provide necessary personnel for two new buildings and will also be applied to the program of reducing the working hours of hospital personnel.

During hearings on the bill the committee inquired into the number and amount of fees charged patients in the two local District-operated hospitals and gave particular attention to the tuberculosis hospital at Glenn Dale, Md. The committee was informed that at this institution an average of about 25 patients are paying for hospitalization at the rate of from $1 to $2 per day. The impression was obtained by the committee during this discussion that too little attention is given to this question and that more careful investigation and regulation would produce greater revenue to the District.

The committee has restored an item providing $5,000 for general repairs and improvements to Columbia Hospital which was eliminated by the Budget from the 1941 estimates. The District has for years been making a contribution toward the maintenance of this institution but we feel that inasmuch as the land is owned by the United States Government and the buildings were constructed by the Federal Government and the District of Columbia that consideration should be given to the advisability of turning the property over to the District to be operated as a municipal institution or for such other purposes as may be found desirable. The property seems to be valued at around a half million dollars and I can see no reason why the Government should subsidize a privately operated hospital in any such manner.

COURTS

Practically no changes in the appropriations made for the juvenile court, police court, and the municipal court have been made. The aggregate appropriation is $3,118 less than the 1940 item and $928 less than the Budget estimates.

PUBLIC WELFARE

Turning now to the Department of Public Welfare, I want to reiterate what has been said about the personal inspection made of every one of the institutions by the members of the subcommittee. While conditions were found to be far from desirable, it must here be said that they were not nearly so bad as has been painted. The chief difficulty has not been lack of funds but the failure to use available moneys in the wisest and most beneficial way. Or, to put it another way, the trouble has been directional and not monetary.

A total of $7,473,925 is allowed for the several activities and agencies comprising the public-welfare service. This sum is $123,100 more than the 1940 appropriation and $20,630 less than the Budget estimates.

For personal services we recommend $149,900, an increase of $5,370 in the current appropriation and $7,160 in excess of the Budget figure. Aside from the deduction of $1,440 for administrative promotions, we have increased the estimate by $6,500 to provide for a principal Assistant Director of Public Welfare and a stenographer at $1,440 per annum. This principal assistant director is to be a capable officer who will devote his entire time to the inspection and administration of the public-welfare institutions of the District, which will be under his immediate supervision and for which he will be responsible. It is the recommendation of the committee that this officer keep in constant touch with conditions at the institutions and visit them at frequent intervals. The committee feels that the fixing of responsibility on one qualified official who will devote his entire time to this duty will do much toward eliminating the unsatisfactory conditions which have existed in several of the institutions.

The receiving home was visited by the members of the committee. The quarters in which this institution is housed are unsuited for the purpose both as to size and arrangement, and it is recommended that the Commissioners give consideration to the location of a new home as soon as the financial condition of the District will permit. The committee believes that immediate steps should be taken to separate delinquent from nondelinquent children who are now housed together in the present home, and to that end we have allowed funds and inserted a proviso to the appropriation for board and care of children, which will permit the continuous operation and maintenance of two foster homes for the temporary board and care of nondelinquent children. This provision will take care of all children of the nondelinquent class and will correct one of the outstanding causes of complaint against the institution.

For personal services at the jail the committee has allowed $101,580, which is $8,280 less than the estimates and $3,360 more than the 1940 appropriation.

The committee considered a supplemental estimate in the sum of $64,000 for the completion of an addition to the jail, for which $250,000 has been provided heretofore. The estimate also proposed an increase in the limit of cost of this building from $250,000 to $314,000. In allowing $44,000 for completion of the building the committee has disapproved an expenditure of the remaining $20,000 in the estimate intended for use in providing a walled enclosure for the jail yard as not justifying the expenditure involved. In line with the reduction in the estimate the committee has recommended a cut in the proposed limit of cost to $294,000.

Members of the committee who visited the workhouse and reformatory were favorably impressed with the efficient administration of the affairs of these institutions. The so-called prison industries are well planned and organized and are being carried on under intelligent direction. Discipline among the prisoners is good and the physical condition of the plant is excellent.

We found that the institutions at Lorton are now purchasing their power from local utilities at what we consider an exorbitant price and asked the superintendent to submit a preliminary survey as to the economies which could be effected by the installation of a Diesel or a steam power plant. The preliminary report is shown in the printed hearings. It is suggested that the District Commissioners direct the appropriate authorities to make a careful and detailed study of this question for the purpose of determining whether a plant should be erected. On the basis of a casual study it appears that from one-third to one-half the annual power bill may be saved and the cost of the new installation amortized over a period of 20 years or less.

With the exception of a reduction of $2,350 in the estimate of $481,350 for maintenance and supplies for the institution and an item of $25,000 for a new bakery building, the committee has allowed other estimates as submitted.

Members of the committee who visited the National Training School for Girls were of the opinion that conditions were not satisfactory at the institution and that definite improvements could be made from the standpoint of sanitation and educational opportunities. It is believed this situation could be corrected by additional supervision and with a small additional expenditure for repairs and improvements. To carry into effect these recommendations the committee has provided for a superintendent at $3,800 per annum to be appointed by the Board of Public Welfare with the approval of the Commissioners, $1,620 is allowed for an employee to serve as instructor of vocational education, and $1,800 additional is provided for medical supplies, farm supplies, repairs, and temporary labor. Other increases, including one parole officer and one watchman, are allowed by the committee as provided in the estimates.

The committee at the District Training School found general conditions were fairly good. Some improvements as to segregation of inmates by classes and ages can undoubtedly be effected, and better care of the ground surrounding the building would greatly enhance the appearance of the institution. With the exception of a reduction of $5,000 in the estimate of $110,000 for maintenance of the institution, the committee has allowed funds for this school as submitted in the Budget estimates.

The committee members who visited the Industrial Home School were of the opinion that general supervision and administration was satisfactory but that improvements could be effected insofar as the educational program was concerned

and that a small additional sum for repairs and improvements was urgently needed. Teachers from the public schools are at present detailed to this institution for the purpose of instructing inmates. The committee believes that the educational program should be carried on by resident teachers directly under the supervision and control of the superintendent and that vocational training should be emphasized. To accomplish this purpose the committee has provided $7,570 for four teachers, including one part-time instructor in vocational education who will be appointed by the Board of Public Welfare. An increase of $1,600 in the estimate of $23,500 for maintenance is allowed for the purchase of equipment to put the vocational program into effect. An increase of $1,500 in the estimate of $5,000 for repairs and improvements will permit the correction of faulty plumbing, improve sanitary conditions, and provide for painting and repair to roofs.

In view of the publicity which has been given conditions at the home for aged and infirm, the committee has paid especial attention to the problem, and members of the committee have made visits to it on different occasions. The committee is of the opinion that most of the criticism leveled against the institution can be corrected by improvement in the supervision and direction of affairs at the home and by a modest increase in personnel to meet existing deficiencies. While the present superintendent of the home has rendered excellent service over a long period of years, the burdens of the work have increased to a point where it is imperative that additional supervisory personnel be provided. To meet this condition the committee has made provision in the bill for a superintendent at $4,600 per annum. The total new personnel allowed by the committee, including three new employees contained in the Budget estimates, is as follows:

	Increases
Superintendent	$4,600
2 nurses	3,260
Resident physician	3,800
Stenographer	1,440
7 hospital attendants	8,820
3 attendants	3,780
Total	25,700

To provide needed repairs to existing structures, the committee has added $7,350 to the estimate of $5,000 submitted in the Budget. Appropriations for public assistance, which include general relief, home care for dependent children, assistance against old-age want, and pensions for needy blind persons, totaling $1,678,000, are approved as provided in the estimates. The committee has also approved the proposal of the Budget earmarking $49,960 of funds for public assistance for use in certifying persons eligible for work relief and surplus commodities.

The committee has inserted in the bill the sum of $15,000 to provide for the education of handicapped or shut-in children. For the past 2 years this work has been carried on by the Work Projects Administration, which has announced that this work cannot be continued after July 1 next. While the sum provided in the bill is somewhat less than the amount provided from emergency funds, the committee feels that it is the maximum which can be allowed for this purpose and that it is sufficient to do a reasonably good job, especially if attention is given to assembling some of the less handicapped children into small groups at regular intervals. This program should be carried on with the cooperation of the public-school authorities.

MILITIA

Aside from the disallowance of $120 for administrative promotions, the sum provided for general expenses in connection with the local militia is the same as provided in the estimates and the current law—$48,880. The committee recommends a reduction of $200,000 in the estimate of $1,300,000 for continuation of construction of the new armory building. This reduction will have no effect on the date of completion of the building, which is being constructed under a 3-year program. During the fiscal year 1942 the sum of $1,150,000 will be required to complete construction of the project.

PUBLIC PARKS

For the several activities making up this appropriation there is recommended $919,842, which is $27,951 less than the 1940 appropriation and $7,280 less than the estimates. With the exception of the disallowance of $1,680 for administrative promotions and the deduction of the salary of the recreation coordinator—$5,600—who has been transferred to the public-school pay roll, the funds recommended for this work are the same as proposed in the estimates.

NATIONAL ZOOLOGICAL PARK

Other than the elimination of funds for promotions, the committee has approved the Budget estimate for this activity. The committee wishes to call attention to the amount set up against this appropriation for telephone charges, which it regards as entirely too large, and recommends that the matter be given study with a view to bringing it in line with essential requirements.

HIGHWAY DEPARTMENT

For the several activities provided for under this fund there is recommended $4,918,990, which is $241,765 less than the 1940 appropriation and $21,160 less than the Budget estimates. The committee has provided an additional electrician at $1,800 per annum to assist in the repair of traffic lights.

In connection with the estimate of $943,000 for repairs to streets, snow removal, and so forth, the committee has allowed $922,500 in recommending a reduction of $20,500 in the item. The increase of $72,500 over the current appropriation, which is approved by the committee will provide additional funds for snow removal and snow-removal equipment. In this connection, $25,000 is provided for the purchase of snow plows, and $12,500 is for the purchase of small tractors especially equipped for snow-removal purposes. Eighteen thousand dollars is provided to reimburse funds used to meet emergency snow-removal expenditures during the current year, leaving $42,000 in the fund for labor in connection with snow removal during the next fiscal year.

With the approval of the Commissioners the committee has also inserted in the bill a provision making the sum of $15,000 available from the street-repair fund for the preparation of plans and specifications for an underpass in line of Sixteenth Street NW., at Scott Circle. This project is shown as being especially urgent owing to the congestion of traffic at this point since the opening of the new underpass at Fourteenth Street and Thomas Circle. It is estimated the project will cost nearly $400,000.

WATER SERVICE

For the general services operating under the Water Department and payable from water-fund revenues, including the laying of water mains, the installation of meters, and so forth, there is recommended $2,244,830, which is $194,570 less than the 1940 appropriation and $298,150 less than the Budget estimates.

Mr. O'NEAL. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield to the gentleman from Kentucky.

Mr. O'NEAL. I would just like to make the statement that when the consideration of this bill was first mentioned there was some reluctance on the part of some Members to serve on the committee because of its controversial nature and because of the existence of many other duties which they felt were more of an obligation. The chairman of the Appropriations Committee, Mr. TAYLOR, selected the gentleman from Florida and asked him to serve as the chairman of the committee, and through a fine spirit of service, almost of self-sacrifice, the gentleman from Florida [Mr. CALDWELL], accepted the chairmanship of the committee. Those of us who served with him were very much gratified by the way he handled the work, by his intelligence and conscientious approach to the job, and we feel that the Congress and the District of Columbia have been highly favored in having the gentleman from Florida [Mr. CALDWELL] as chairman of the District of Columbia Subcommittee. [Applause.]

Mr. CALDWELL. Mr. Chairman, I am grateful for the kind words of the gentleman from Kentucky, but I must say that the work which has been done on this bill has been done

by the committee, by the members who voluntarily offered their services and who have done a good job. They have worked hard, rapidly, and faithfully. [Applause.]

Mr. STEFAN. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, as ranking member of the minority subcommittee making appropriations for the District of Columbia, I wish to take this opportunity of telling you of my appreciation for the courtesy extended to me by our chairman, the gentleman from Florida, the Honorable MILLARD F. CALDWELL, and other members on this committee who include the gentleman from Texas, Hon. GEORGE H. MAHON; the gentleman from Kentucky, Hon. EMMET O'NEAL; the gentleman from Michigan, Hon. LOUIS C. RABAUT; the gentleman from Kansas, Hon. JOHN M. HOUSTON; the gentleman from South Dakota, Hon. FRANCIS H. CASE; and the gentleman from Kansas, Hon. WILLIAM P. LAMBERTSON. I wish also to add a word of appreciation for the valuable assistance given to us by Mr. William Duval, our committee clerk.

This is the second time I have had the privilege of working on appropriations for the District, and, while it contains very little interest so far as the people of my own congressional district are concerned, I feel that it is an honor to serve on a committee which has to do with the appropriating of funds to carry on the functions of the government of our Nation's Capital. This bill takes in all the regular annual appropriations charged to the revenue of the District, including the permanent Federal contribution of the $6,000,000, over which there has been so much controversy in the past. This amount has ranged from five millions up to nine millions of dollars, and in spite of many surveys no one has yet informed Congress just what the proper amount should be, in my opinion. Anyway, members of the committee should know that this bill carried over $48,000,000, in which their own taxpayers have an interest in the Federal contribution of $6,000,000, plus other Federal benefits which are not reflected in this bill. Compared with the Budget estimate, the bill shows a decrease of $1,317,701.

In my opinion, there is no other appropriation bill which comes before this House each year which attracts more attention of the people in the District of Columbia than does the bill which we bring before you at this time. It comes to you in finished form after a most careful study and consideration by every member of this committee. It comes to you after a diligent study of each item and after a personal survey of many of the institutions which are located here. The committee brings this bill to you after holding intensive hearings and making it possible for everyone interested in the city to appear before the committee and state their views on various matters.

As is the case in other appropriation bills, your committee members are forced necessarily to depend upon the information and justifications brought to them by the various officers in charge of the various departments of the city government. In this work we were greatly aided by Maj. Dan Donovan, the District auditor, who, I believe, knows more about the District financial problems than any other individual in the city. The committee has gone further this year by making personal investigations and securing information direct from many citizens directly interested and directly affected by taxation. Until the taxpayers and citizens of this city secure a more direct benefit toward securing the privilege of saying how their tax money shall be expended, I feel that this committee has gone the limit in taking the feelings of the local public opinion and of the citizens into consideration before reaching its conclusions.

So far as I know, there is very little controversy in this bill, and it comes to you with the unanimous report of the committee. The hearings contain 559 pages of valuable information, which will indicate to you the length to which the committee went in securing information in order to be fair regarding the wishes of the citizens. The report will give to you explanations on some of the items which will show some changes compared with the items contained in the bill a year ago. I specifically call your attention to the items regarding education, public health, and public assistance, and the construction items. A close study of the hearings will indicate to you why the newspapers recently have stated that Washington is the third city in the United States in the point of new construction.

Evidence brought before us will indicate that this city and greater Washington is continuing to experience a boom and that thousands of people from all parts of the country are being attracted here because of the gigantic pay roll. As a result of this gigantic growth of the city, taxpayers find that quite a bit of their money goes toward benefits for individuals, which should be borne by taxpayers of other States, largely by the States bordering the District of Columbia. This is brought out by the fact that a year ago 2,400 pupils came to Washington from Maryland and Virginia and secured free tuition. Today that number has jumped to around 2,800, and in reply to a question, the Superintendent of Schools told the committee that the taxpayers of the District of Columbia are forced to pay $265,000 for tuition for children that should be the responsibility of nearby States. Free medical attention, free hospitalization, and other benefits here are also going to many of the people who should be the responsibility of neighboring States, and just how much of the Federal contribution goes toward these expenditures has not been determined. Yet it is safe to say that the Federal contribution to the District of Columbia government in which money paid by taxpayers in Nebraska and other States in the Union is represented, does find its way into these various expenditures.

Until some other means of appropriating funds for the District is found and until the people in the city who actually pay the bill are given more freedom and more responsibility and right to determine how their money should be spent, this Congress must act as a sort of a city council for the Nation's Capital, and your Subcommittee on Appropriations must do the best it knows how in giving fair treatment to the citizens here. Mr. Chairman, I am proud of my Nation's Capital, and like other Members and other citizens of this Nation, I am very happy to know that every effort is being made on the part of the various agencies in charge to make it the most beautiful capital city in the world. I feel every member of the committee feels the same way about it, but I know they also feel that eventually the citizens here—the taxpayers—will bring about some change in order that they will carry on their responsibility so far as the expenditure of their own money is concerned, and that something will develop in the near future whereby the taxpayers of the other States of the Union will not feel that they are in any way unjustly being taxed for the many benefits derived by the people here.

People in the various States in the Union may not realize that the city of Washington is now probably the fastest growing city in the United States. The fact that the Nation's Capital is located here is the only reason. I make this statement on the basis of facts printed in a recent issue of the Washington Evening Star, which is admitted by every newspaperman here to be the best newspaper published in Washington, and, in fact, one of the best newspapers in the United States. I feel sure that most of the people in the United States would now be happy to have the Capitol of our country located in their city. I know we people in Nebraska would like to have the Capitol in our State. We who have suffered droughts, insect plagues, and so on, would be glad to have some of the benefits which pour into this city as the result of the Capital being located here. So far as I am concerned, I feel that Washington has never felt a depression such as we have been feeling in the State of Nebraska. Let me tell you some of the benefits Washington is receiving as they are shown by the Washington Star:

> Washington leads the Nation in concentration of buying power, with private and Government pay rolls ranging between $43,000,000 and $50,000,000 a month. The magazine Sales Management estimates annual income in the District of Columbia at $3,867 per family, higher than for any other area.
>
> Population of the Washington metropolitan area has increased to approximately 950,000, compared with only 621,059 in the 1930 Federal census. Utility connections indicate a gain of 150,000 persons in the last 4 years.

Washington retail trade volume exceeded $400,000,000 for the first time in history during 1939. Department-store sales swept 3.5 percent ahead of their previous all-time high peak set in 1937 and were 18.2 percent ahead of the 1929 levels.

The rapid building pace necessary to meet greatly expanded needs for housing has attracted Nation-wide attention. More than 13,000 families were provided for in the last year in the metropolitan area. Since the beginning of 1935 more than 50,500 families have been provided for within the same boundaries.

Washington has more telephones in ratio to its population than any other city in the world. At the end of 1939 there were 254,042 connections in the District of Columbia itself. There were 311,027 connections in the metropolitan area.

With approximately 263,000 automobiles in the metropolitan area, Washington is an outstanding market for automotive products. Gasoline consumption in the District of Columbia alone jumped during 1939 to another new record of 143,000,000 gallons.

Millions of people from all over the Nation visit their National Capital every year. Visitors at Smithsonian Institution, mecca of tourists, totaled 2,542,268 during 1939, another new record.

Consumption of electric power and gas forged into new high ground during the year. The home-appliance industry rates Washington one of its most highly developed markets.

[Applause.]

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. STEFAN. Yes.

Mr. TREADWAY. In view of the fact that this measure has to do with the finances of the District of Columbia, is the committee influenced to any great extent by the press references that are made to various items that come up in this bill?

Mr. STEFAN. Mr. Chairman, I thank the gentleman from Massachusetts for asking that question, because I know that every Member in the House, when he picks up a local newspaper about a month before the appropriation bill is made up for the District of Columbia, finds a mass of news stories, with great headlines, calling our attention to the various ills of the District of Columbia, but let me tell the gentleman something else. I welcome the information in the press, be cause I bleieve that is the only means that the people in the District of Columbia have to express their wishes. They have no other way of expressing their wishes in the District of Columbia, and the molding of opinion here is largely done through the newspapers which perform a great service to the taxpayers in the District who cannot become vocal in any other way.

Mr. RANDOLPH. Mr. Chairman, will the gentleman yield?

Mr. STEFAN. Yes.

Mr. RANDOLPH. I have listened with interest to the colloquy between the gentleman from Massachusetts [Mr. TREADWAY] and the gentleman from Nebraska [Mr. STEFAN] upon the subject of certain newspaper articles which might be brought to bear and exert an influence on appropriation bills for the District of Columbia. I think perhaps the gentleman will agree with me also that the District of Columbia Committee, charged with legislation for this jurisdiction, at times is criticized because we appoint subcommittees to make inquiry and survey certain ills or bad conditions that are brought to us for our consideration. The most recent investigation along this line is one in which, the gentleman from Maryland [Mr. D'ALESANDRO], looked into the welfare and hospital situation of the city. The gentleman from Nebraska realizes, I feel sure, that we do well to investigate outstanding complaints which are brought to our attention.

Mr. STEFAN. Oh, the gentleman is absolutely right. His committee performs a valuable work, but I wish to make the record plain that the gentleman from Massachusetts [Mr. TREADWAY] was not criticizing. He was seeking information as to how these matters are brought to the attention of the Congress, and had it not been for information brought to us in various newspaper articles, I am sure very little attention would be given to some particular things that Congress would not have the time to investigate. I know that the legislative committee has done wonderful work.

Mr. RABAUT. Mr. Chairman, will the gentleman yield?

Mr. STEFAN. Yes.

Mr. RABAUT. I rise to say a word in comment of the distinguished gentleman from Nebraska and his devotion to this city. A moment ago he was paying favorable comment to members of the committee. The gentleman from Nebraska has been with the committee for some time, and his knowledge of District affairs is indeed great. I am wondering at this time if it would not be very appropriate for the Committee to have as a matter of record in the CONGRESSIONAL RECORD the appreciation of the committee of Major Donovan.

Mr. STEFAN. Interrupting the gentleman, I am in accord with him and in fact in the extension of my remarks the gentleman will find a commendation of Major Donovan who, I believe, knows more about the District's financial affairs than any other man in Washington.

Mr. RABAUT. The gentleman is correct.

Mr. STEFAN. I agree with the gentleman from Michigan who has worked so hard on these bills and I thank him for the help he has given us; but going further into the matter of these newspaper articles, I answer the gentleman from Massachusetts and say yes, they do reflect not only in legislation, but in the appropriation bill, and the bill we have before us carries a considerable reflection of some of the things brought to the attention of Congress and the public in general by the newspapers of Washington.

Mr. STEFAN. Mr. Chairman, I yield 20 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

THE TREADWAY RESOLUTION FOR THE CREATION OF A FEDERAL TAX COMMISSION

Mr. TREADWAY. Mr. Chairman, my remarks today are addressed to a joint resolution which I have had pending for some time which proposes the creation of a nonpartisan Federal Tax Commission, representing both the Congress and the general public, to make a thorough study of the Federal tax structure and recommend much-needed reforms.

The President of the United States is authority for the statement that taxes in this country "have grown up like Topsy." That is one of the principal faults of our present tax structure. Our tax laws are a veritable hodgepodge. They have been enacted at odd times over a long period of years, and piled one upon the other. They are not part of any integrated or coordinated plan of taxation. They do not adhere uniformly to sound tax principles. Too little consideration has been given to their effect upon taxpayers and the national economy. The Federal and State Governments have gradually encroached upon each other's spheres of taxation, thereby bringing about multiple taxes of the same character.

I share the opinion of many that it is high time we took our Federal tax system apart and rebuilt it along more satisfactory lines. We should endeavor to develop a long-range, well-balanced, equitable, and simplified scheme of taxation which will meet the legitimate revenue needs of the Government without unduly burdening the citizen or business enterprise.

The revision of our tax system is one of our most pressing national problems. It is a subject which is of vital interest to every man, woman, and child, and every business concern in the country. It is said that from death and taxes there is no escape, and this is literally true. Those taxes which we do not pay directly to the tax collector we pay indirectly in the increased cost of goods and services, and the fact is that these unseen or hidden taxes make up the greater share of our present tax burden.

In my resolution, I propose what I conceive to be generally desirable tax policies to guide the Commission in its studies. These policies have received the personal indorsement of the Secretary of the Treasury, as appears from a colloquy which I had with him in the course of the hearings before the Ways and Means Committee on the 1939 tax bill. I shall ask unanimous consent to include brief extracts from these hearings at the conclusion of my remarks.

Now what are these tax policies which I propose, and which the Secretary of the Treasury has indorsed? I shall refer to them, one by one, and make short comments thereon.

STABLE TAX POLICY NEEDED

First, it is proposed that Congress establish a stable, more permanent Federal tax policy. Right now we do not seem to have any definite tax policy, or if any exists, it certainly is not a very stable one. Every year since 1932 we have had a tax bill of some sort. Whether we have one this year is as yet uncertain. In the last 5 years, corporations have been subjected to five different kinds of taxation—and still we wonder why we have business uncertainty. Under the act of 1934, all corporations paid a flat tax on their net income. In 1935, a graduated corporation income tax was enacted, which was to apply to the taxable year 1936 and subsequent years. In 1936, before any taxes had been collected under the graduated tax, the iniquitous undistributed-profits tax was passed, which completely revolutionized corporate taxation. In 1938, as a result of public criticism, this tax was drastically amended, and we had a graduated income tax on small corporations and a modified undistributed-profits tax on large corporations. The latter tax was superseded last year by a flat tax on net income. Business can usually adjust itself to any reasonable burden if it knows what it is going to be, but it is this constant change and fear of further change that has in a large measure contributed to the present state of uncertainty. If we adopt a fixed tax policy, we can adjust the rates upward or downward to meet changing revenue needs.

BURDENSOME TAXES SHOULD BE AVOIDED

Second, it is proposed that we raise the necessary revenue for the support of the Government with the least possible burden on individual taxpayers and business enterprises. While taxes are a necessary evil, care should be taken that they do not oppress or unduly burden the taxpayer. This is one of the outstanding purposes of the resolution.

EXCESSIVE RATES CAUSE REVENUE SHRINKAGE

Third, it is proposed that due regard be given to the natural economic law of diminishing returns in fixing tax rates. We have learned by experience that there is a point beyond which a higher rate of taxation produces not more, but less, revenue. In the opinion of many, the upper brackets of the surtax, which take as much as 79 cents out of the taxpayer's dollar, have already reached that point. Excessive taxes not only dry up the sources of revenue, but they tend to drive capital out of productive enterprise, to the great detriment not only of workers but of the Nation as a whole. The President has well stated that excessive taxes

> Are reflected in idle factories, tax-sold farms, and * * * in hordes of the hungry tramping the streets and seeking jobs in vain.

During the twenties we found that we could raise more money by reasonable taxes than we could by taxes that stifled business and took too large a share of the purchasing power of the people. We should profit by that example.

TAXES SHOULD BE BASED ON ABILITY-TO-PAY PRINCIPLE

Fourth, it is proposed that Federal taxes be based, insofar as practicable and expedient, upon the principle of ability to pay. We profess to follow that principle, but in practice we do not, except to a very limited extent. The income tax is the outstanding example of this kind of a tax. One of the questions which the proposed commission undoubtedly would consider would be the broadening of the income-tax base. This, of course, is a rather unpopular subject. However, I should expect the Commission, if it made a recommendation along this line, to offset the extension of the income tax to those in the lower-income groups by the elimination of the taxes paid by such groups which are not based on ability to pay. I realize that there are some few taxes of this character, such as those on liquor and tobacco, which from the revenue standpoint probably would have to be continued.

HIDDEN TAXES SHOULD BE ELIMINATED

Fifth, it is proposed that indirect and hidden taxes be eliminated insofar as possible. This principle overlaps the one just mentioned to some extent, but it needs separate recognition. These indirect taxes not only are not based on ability to pay, but their principal vice is that they deceive the taxpayer, particularly the person of small means, as to just how much he is having to pay for what the President has termed "the luxury of being governed." On November 18, 1937, I presented to the House some studies showing how much persons in various income groups paid per year in the form of hidden taxes. These studies showed that a man with an income of only $80 per month, who owned neither a home nor a car, paid over $116 annually to the Federal, State, and local governments in taxes of this kind, which, of course, he did not realize he was paying. The man with $150-a-month income who owned a second-hand car but no home paid $229 a year in hidden taxes. It was found that 25 cents out of every dollar paid to the landlord for rent went to reimburse him for taxes assessed against the property. The hidden tax in every dollar paid for food is 7 cents, for clothing 8 cents, for fuel and light 9½ cents, for transportation by automobile 20 cents, for recreation 10 cents, and so on. A large part of the price of everything a man buys is represented by hidden taxes of one kind or another.

According to official Treasury estimates, over 60 percent of the Federal tax collections come from taxes of this character. Because so many of our taxes are hidden, persons of small means, who are not subject to the income tax, are led to believe that they are paying nothing to the support of the Government, when as a matter of fact they are actually contributing the greater share of the total tax burden. If we would bring Federal taxes out into the open, so that each person would know how much he is contributing to the cost of government, we would soon get back to a sane spending program. Only when the people are tax conscious will they become expenditure conscious as well.

SIMPLIFICATION NEEDED

Sixth, it is proposed that efforts be made to simplify the Federal-tax system, including the forms of taxation, the statement of the law, and the methods of administration. Everyone knows that our present tax laws are a headache for taxpayers, and a bonanza for tax lawyers and accountants. There is room for much work to be done along the line of simplification. It has been said that we cannot have simple tax laws applying to the complexities of modern business methods, but still we do not have to go out of our way to make the statement of the law unintelligible, or the methods of taxation unnecessarily complicated.

SHOULD ALLEVIATE HARDSHIPS AND INEQUITIES

Seventh, it is proposed to alleviate the hardships and inequities in the application and administration of the tax laws. That these hardships and inequities exist, no one will deny. We should remedy them to the extent that it is possible to do so.

THE PROBLEM OF DOUBLE TAXATION

Eighth, it is proposed to minimize double taxation on the part of the Federal and State Governments. This is one of our most pressing problems, and one which is going to be most difficult of solution. It is worthy of being made the subject of a special study. The commission, however, could at least make recommendations as to how best to proceed in endeavoring to work the problem out.

TAX LOOPHOLES SHOULD BE CLOSED

Ninth, it is proposed that further efforts be made to prevent tax evasion and avoidance. Much work has already been done along this line, but some of the outstanding methods of tax avoidance still remain unremedied. One of these is the community property system which prevails in some nine States, whereby citizens in those States are legally enabled to reduce their Federal income tax by as much as 40 percent.

OTHER DESIRABLE CHANGES

Tenth, it is proposed that the commission suggest such other changes as will improve the Federal-tax system. This is more or less of a basket clause, there being no intention to limit the commission in the scope of its study. Under this heading, the commission could give consideration to such matters as whether it is desirable to recognize capital gains and losses for income-tax purposes, whether dividends should continue to be taxed at the normal rate in the hands of individuals, whether sufficient preference is now given to the treatment of earned, as distinguished from unearned income,

and such other matters as might properly come up in connection with the general tax problem. Any number of matters of this kind could be mentioned.

FEDERAL TAX COMMISSION LONG ADVOCATED BY MANY GROUPS

Under the resolution, the commission would be directed to make such investigations as it deemed necessary or advisable in order to carry out the purposes set forth. It would be directed to report to Congress not later than January 3, 1942, which would give it ample time in which to make its study and formulate its recommendations.

Let me say that the setting up of a nonpartisan Federal tax commission on which various economic groups would be represented has long been advocated by many outstanding organizations and individuals. Among the national organizations favoring such a commission are the American Farm Bureau Federation, the American Federation of Labor, the American Bar Association, the American Institute of Accountants, the National Association of Manufacturers, and the Chamber of Commerce of the United States. Thus agriculture, labor, and industry all unite in the demand for a study such as I provide for in my resolution.

The round table on taxation and recovery, conducted last year by Fortune magazine, which was participated in by leading businessmen and tax authorities, unanimously recommended the establishment of a national tax commission, saying in part:

Our first and foremost suggestion is that Congress authorize the appointment of a national tax commission, drawn from among the ablest men in public and private life, to take evidence from every competent source, and recommend the adoption of such principles and methods of administration as would remove much of the present complexity and uncertainty.

Mr. Bernard M. Baruch, one of the elder statesmen of the Democratic Party, said, in testifying before the Senate Committee on Unemployment and Relief in 1938:

Revision of Federal and State tax structures for maximum business activity and at the same time maximum revenue on the law of diminishing returns requires study. I am not here making specific recommendations except as to principles. But I believe that an open hearing in a deliberate inquiry by a mixed commission where economic as well as political tax experts could be heard, could make proposals much improving the present tax structure, and it is hard to excuse our delay in doing that. It is a matter of public concern and pretty near first magnitude. If there is such a thing as science in government, this is where it should be applied. The Treasury is no place for the theories of political messiahs.

One of the organizations which has taken a most prominent part in advocating the creation of a Federal tax commission is the American Institute of Accountants. Tax lawyers and accountants come in direct contact with the problems which taxpayers meet in the application of the law and its administration by the Bureau of Internal Revenue and the courts. The Committee on Federal Taxation of the American Institute of Accountants, in a report made a little over 2 years ago, stated:

For many years the determination of sound principles of Federal taxation has been urged. Treasury emergency and political expediency have combined to defer this objective. The administration could do not one thing of greater importance to assure the future stability of business than to bring about the creation of a qualified nonpartisan commission to conduct the research required for the unbiased determination of fixed principles of Federal income taxation. The most confusing and perilous factor confronting those who chart the course of business today is that of taxation. Much of the uncertainty could be removed.

Since that time this organization has continued to advocate such a commission, and in its most recent report, dated September 18, 1939, states in part:

Official recognition has already been given in this country to the proposal for a qualified nonpartisan tax commission, Representative TREADWAY having introduced in the last two sessions of Congress joint resolutions providing for the creation of such a commission. Although these resolutions failed of legislative consideration, they should be revived and aggressively championed. * * * The real solution of our national tax dilemma awaits the appointment of an unbiased national tax commission, comprising individuals drawn from business, labor, government, and professional circles, who have a well-grounded knowledge of tax matters.

PROPOSED COMMISSION WOULD HAVE BROAD REPRESENTATION

In my resolution I have proposed a commission of 10 members, which is about as small a number as can reasonably be provided for and still give broad representation. There would be 4 congressional members and 6 representing the public. I have provided for 2 congressional members from each branch, 1 representing the majority party and 1 the minority party, in keeping with the nonpartisan character of the commission. Of the 6 public members 1 would be representative of agriculture, 1 of labor, 1 of business and industry, 1 of individual taxpayers and consumers, 1 of tax lawyers and accountants, and 1 of tax economists. These members would be appointed by the President, by and with the advice and consent of the Senate. They would constitute a majority of the commission.

The chief criticism of past tax studies is that they have never been very thorough, and in no instance has the public had any representation. They have been conducted by the revenue committees of the Congress working in conjunction with the Treasury. Of course, those who write the tax laws are naturally somewhat prejudiced in favor of their own handiwork. There has been too little sympathy with the viewpoint and problems of those who have to pay the tax bill. Every organization which has endorsed the proposal for a Federal tax commission has called attention to this fact and urged that interests and viewpoints be represented.

Since the introduction of my resolution two other Members of the House have introduced similar measures, namely, the gentleman from Illinois [Mr. DIRKSEN] and the gentleman from New York [Mr. CELLER]. This is evidence of the increasing interest in the matter. This is strictly a nonpartisan proposition, and I do not see how there can be any objection to it.

PROPOSED STUDY ALREADY TOO LONG DELAYED

We have already waited too long to undertake a complete overhauling of the Federal tax structure, which, as nearly everyone concedes, is much to be desired. The creation of a Federal tax commission would enable us to establish a more sound, more equitable, more understandable, and more productive tax system, and obviate the necessity for frequent changes in the forms and incidence of taxation. With our revenue problem as grave as it now is, there is all the more reason why this study should be undertaken. Before imposing any new taxes, we ought to know exactly where we stand and where and how far we can go for new revenue without "killing the goose." [Applause.]

EXHIBIT A

House Joint Resolution 35

Joint resolution establishing a Federal Tax Commission, and for other purposes

Resolved, etc., That it is hereby declared to be the policy of Congress—

(1) To establish a stable, more permanent Federal tax policy;

(2) To raise the necessary revenue for the support of the Government with the least possible burden on individual taxpayers and business enterprises;

(3) To give due regard to the natural economic law of diminishing returns in fixing tax rates;

(4) To base Federal taxes, insofar as may be practicable and expedient, upon the principle of ability to pay;

(5) To eliminate, insofar as may be possible, indirect and hidden taxes;

(6) To simplify the Federal tax system, including the forms of taxation, the statement of the law, and the methods of administration;

(7) To alleviate hardships and inequities in the application and administration of the internal-revenue laws;

(8) To minimize double taxation by coordinating the Federal tax system with those of the State and local governments;

(9) To prevent tax evasion and avoidance; and

(10) To make such other changes as will improve the Federal internal-revenue system.

SEC. 2. There is hereby established a Federal Tax Commission (hereinafter referred to as the "Commission"), to be composed of 10 members, as follows:

(1) Two members who are members of the Committee on Finance of the Senate, one from the majority and one from the minority party, to be chosen by such committee;

(2) Two members who are members of the Committee on Ways and Means of the House of Representatives, one from the majority and one from the minority party, to be chosen by such committee;

(3) Six members (none of whom holds any office in the Government of the United States or is engaged in the activities of any political party), to be chosen by the President, by and with the advice and consent of the Senate, one of whom shall be a representative of agriculture, one of labor, one of business and industry, one of individual taxpayers and consumers, one of tax lawyers and accountants, and one of tax economists.

SEC. 3. It shall be the duty of the Commission—

(1) To make such investigations as it may deem necessary or advisable in order to carry out the purposes of this resolution;

(2) To publish from time to time, for public examination and analysis, proposed measures for carrying out the policy of Congress herein expressed; and

(3) To report to the Congress from time to time, and in any event not later than January 3, 1942, the results of its investigations, together with such recommendations as it may have to make.

SEC. 4. (a) The Commission shall meet and organize as soon as practicable after at least a majority of the members have been chosen, and shall elect a chairman and a vice chairman from among its members, and shall have power to appoint and fix the compensation of a secretary and such experts and clerical, stenographic, and other assistants as it deems advisable. A vacancy in the Commission shall not affect the power of the remaining members to execute the functions of the Commission, and shall be filled in the same manner as the original selection.

(b) The Commission is authorized to hold hearings and to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems advisable. The cost of stenographic services in reporting such hearings shall not be in excess of 25 cents per hundred words. Subpenas for witnesses shall be issued under the signature of the chairman or vice chairman.

(c) The Commission is authorized to utilize the services, information, facilities, and personnel of the departments and agencies in the executive branch of the Government, of the Joint Congressional Committee on Internal Revenue Taxation, and of the office of the Legislative Counsel.

(d) The Commission shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, and to submit any relevant or useful information thus obtained to the Congress.

(e) The members of the Commission shall serve without compensation for such service, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(f) There is hereby authorized to be appropriated so much as may be necessary to carry out the purposes of this resolution. Amounts appropriated for the expenses of the Commission shall be disbursed by the Division of Disbursements, Treasury Department, upon vouchers approved by the chairman or vice chairman.

(g) All authority conferred by this resolution shall terminate on the expiration of 3 years from the enactment of this resolution.

EXHIBIT B

COMMENTS OF SECRETARY OF THE TREASURY MORGENTHAU ON TREADWAY RESOLUTION

(Extracts from hearings before Ways and Means Committee on revenue bill of 1939)

Mr. TREADWAY. In view of the fact that you suggest the creation of a small commission, don't you think that there are serious questions involved in the whole tax picture that would deserve an investigation by a nonpartisan commission?

Secretary MORGENTHAU. Well, Mr. TREADWAY, I made this suggestion in order to raise a question which I think is a very important one. And just how Congress, in its wisdom, will handle it, naturally I will leave to them. But ever since I have been in the Treasury I have felt that this question of overlapping taxes is one of the important ones, and I take the liberty of bringing this to the attention of Congress so that you really might do something about it.

Mr. TREADWAY. Well, the modesty of Mr. JENKINS leads me to exhibit a similar modesty, but I call your attention to a measure which I introduced in two Congresses. In the last Congress I introduced a resolution, and repeated it in the Seventy-sixth Congress, extending this Commission's study on a broader scale than what you are suggesting here. Therefore, I would like to ask that House Joint Resolution 35 of the Seventy-sixth Congress also be given the attention of your experts, wherein it is stated:

"It is hereby declared to be the policy of the Congress—

"(1) To establish a stable, more permanent Federal tax policy."

You would agree that that is desirable, would you not?

Secretary MORGENTHAU. Yes.

Mr. TREADWAY. Then, in the second place—

"To raise the necessary revenue for the support of the Government with the least possible burden on individual taxpayers and business enterprises."

I take it this very statement you are making to us this morning is along that very line, is it not?

Secretary MORGENTHAU. I think both aims are laudable.

Mr. TREADWAY. Thank you. Then—

"(3) To give due regard to the natural economic law of diminishing returns in fixing tax rates."

You would approve of that, would you not?

Secretary MORGENTHAU. Yes.

Mr. TREADWAY (reading):

"(4) To base Federal taxes, insofar as may be practicable and expedient, upon the principle of ability to pay."

That is a good policy of the Government, is it not?

Secretary MORGENTHAU. Excellent.

The CHAIRMAN. It sounds like the Democratic platform.

Mr. KNUTSON. It does sound like it, but Mr. TREADWAY wants to carry it into effect.

Mr. TREADWAY. Then—

"(5) To eliminate insofar as may be possible indirect and hidden taxes."

Is there anything worse in our whole tax program than hidden taxes?

Secretary MORGENTHAU. I think we can agree on that.

Mr. TREADWAY (reading):

"(6) To simplify the Federal tax system, including the forms of taxation, the statement of the law, and the methods of administration."

Those are all laudable purposes, are they not?

Secretary MORGENTHAU. Very.

Mr. TREADWAY (reading):

"(7) To alleviate hardships and inequities in the application and administration of the internal-revenue laws."

That is a good doctrine?

Secretary MORGENTHAU. Yes.

Mr. TREADWAY (reading):

"(8) To minimize double taxation by coordinating the Federal tax system with those of the State and local governments."

That is exactly what you are recommending, is it not, in this small board you recommend setting up?

Secretary MORGENTHAU. Yes, sir.

Mr. TREADWAY. So that you approve of that?

Secretary MORGENTHAU. Yes, sir.

Mr. TREADWAY (reading):

"(9) To prevent tax avoidance."

That is the objective of all of us?

Secretary MORGENTHAU. It is.

Mr. TREADWAY. And—

"(10) To make such other changes as will improve the Federal internal-revenue system."

Secretary MORGENTHAU. Fine.

Mr. TREADWAY. Those are the declarations of policy. Then this modest bill of mine, timidly offered for your comment at this time, goes on to set up a Commission composed of two members of the Senate Finance Committee, two members of the Ways and Means Committee, and six members, none of whom hold any office in the Government of the United States or are engaged in activities of any political party, to be chosen by the President.

Secretary MORGENTHAU. Very good.

Mr. TREADWAY. That is a good board, isn't it?

Secretary MORGENTHAU. It sounds very good to me.

Mr. TREADWAY. Then, so far as I can see—the rest of it is more or less detail, method of procedure, and so on—so far as I can gather from your responses to my inquiries, you and I are in hearty accord as to the desirability of setting up such a nonpartisan commission.

Secretary MORGENTHAU. If I again might answer, it seems that you and Mr. JENKINS, the President, and I are all in accord.

Mr. TREADWAY. It looks very like it, and I am very glad to have you come around to our way of thinking.

EXHIBIT C

[Editorial appearing in the Journal of Accountancy, July 1939]

TAX REFORM

The American Institute of Accountants committee on Federal taxation has repeatedly stated its conviction that the first step toward placing the Federal tax system on a sound and equitable basis should be the creation of a qualified nonpartisan commission to establish fixed principles of income taxation and related administrative procedure. Shortly before adjournment of the Seventy-fifth Congress Representative TREADWAY, of Massachusetts, introduced a resolution which embodied the substance of the institute committee's proposal. In doing so Mr. TREADWAY quoted the committee's recommendations on the floor of the House of Representatives. Since no action was taken at that session of the Congress, the resolution was still pending when the 1939 session convened. Until recently there seemed little likelihood that it would receive serious consideration. On May 27, however, the prospect changed. The Secretary of the Treasury appeared before the Ways and Means Committee of the House on that day to discuss tax revision. He recommended that a temporary national committee be established to study all forms of taxation and to recommend improvements in the tax structure as a whole. Congressman TREADWAY, in colloquy with the Secretary, read the aims and purposes of the resolution and obtained from him an expression of complete agreement with each. Mr. Morgenthau further agreed to have the Treasury Department make a thorough study of the resolution and report to Congress on it.

Provisions of the resolution itself, which is known as House Joint Resolution 35, were described fully in the Journal of Accountancy

for July 1938. We cannot imagine any basis for disagreement with the proposals advanced by Mr. TREADWAY, and we believe that this is an issue to which the accountancy profession will wish to summon its full support.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. I yield to my colleague.

Mr. GIFFORD. Is not the gentleman fearful that the make-up of that commission would do more harm than good under the present administration, having in mind the T. N. E. C. appointments? In the end you might get a recommendation far different than the gentleman would expect. Is it not better to wait a little while?

Mr. TREADWAY. I have waited for 2 years to even have a hearing on this measure.

Mr. GIFFORD. Does the gentleman trust the President to appoint these members?

Mr. TREADWAY. The President of the United States ought to be—and I think I can say must be—interested in the welfare of his fellow citizens. I cannot conceive of a man competent to fill the office of President of the United States, to whatever party he may belong, endeavoring to set up a board having to do with the individual interests of every citizen of the country that would not treat those divisions that I spoke of fairly. I may have a little more regard for the present incumbent of the White House than the gentleman from Cape Cod.

Mr. GIFFORD. I am reading the hearings before the T. N. E. C., and many of those men—all those enthusiastic new dealers have been appointed 90 percent of the time, and 90 percent of the doctrine placed before them is of these New Deal schemes. I do not think the gentleman would be happy at all with any report that could come from a commission appointed at this time.

Mr. TREADWAY. Well, it is such an important subject that there should not be any undue delay in anticipation of a change of administration. I am not going to take up the question of partisanship in connection with this matter.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. STEFAN. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. TREADWAY. I think the subject matter is too important to become involved in a discussion of the question of partisanship.

While I asked the Treasury Department on March 6 for a formal report on my resolution, none has been received up to this time. However, as I have pointed out, the Secretary has personally endorsed the proposal, so he is already on record.

I may say that I have requested the chairman of the Ways and Means Committee to hold hearings on the measure, but no action has as yet been taken on my request. However, he has discussed the matter with me informally, and I hope and trust that a favorable decision will be reached. I realize that it is difficult for a Republican Member to secure consideration of a measure when the Democratic Party is in control, but in view of the fact that my proposal is strictly nonpartisan and is one in which every person in the country has a vital interest, it would seem that the Democratic majority on the Ways and Means Committee might properly join in the nonpartisan spirit and permit public hearings to be held on the resolution. Then if my colleague wants to change the formation of the Commission, there is no pride of authorship so far as I am concerned. I shall be only too glad to have the benefit of his advice in submitting to the Ways and Means Committee a formal measure. I would say further that the measure I am introducing, of course, is only something to have before the committee, as the expression goes, to shoot at.

Mr. GIFFORD. If the gentleman will yield further, I can only remark that the present President is the only President we have. We cannot avoid having him make those appointments. The gentleman could not possibly change his resolution to avoid that.

Mr. TREADWAY. I am not so sure that we cannot have a satisfactory commission. While I realize that my colleague is rather steeped in good old-fashioned conservative Republicanism—and I do not think I need take a back seat from him on that score myself—nevertheless I am willing to show that much confidence at least in whoever may be President of the United States. My thought is we want this study made. The country cannot go along under a different tax bill year after year. We need some permanent basis on which to set up taxation. I feel very strongly, therefore, that some measure of this kind ought to be passed. The first point, of course, is to have a hearing on it.

I thank the Committee for its indulgence.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include therein a copy of the resolution I have introduced, some excerpts from a hearing before the Ways and Means Committee in which Mr. Morgenthau testified, and an editorial from an accounting magazine.

The CHAIRMAN. The Chair reminds the gentleman from Massachusetts that he will have to obtain such permission in the House.

Mr. TREADWAY. I do not think I shall have to obtain permission to insert the resolution, shall I?

The CHAIRMAN. Permission must be secured in the House for the insertion of extraneous matter.

Mr. TREADWAY. But, Mr. Chairman, I submit this resolution is not extraneous, for it is one that I am proposing.

Mr. Chairman, I submitted three different requests, none of which, in my opinion, relate to extraneous matter under the rule. One is the resolution itself that I have introduced. I could read that in my own time.

The CHAIRMAN. The Chair advises the gentleman that the Chair is informed by the Parliamentarian that permission to insert the matter referred to by the gentleman should be obtained in the House.

Mr. RABAUT. Mr. Chairman, I yield 5 minutes to the gentleman from Idaho [Mr. WHITE.]

Mr. WHITE of Idaho. Mr. Chairman, I realize, in saying what I am about to say, that I may tread on a lot of toes.

Mr. Chairman, I have been here in the capital of the United States now for some 7 years and have been giving considerable thought to the policies and programs of the people in control of the city and the building up of this great civic center, and the working out of those policies. I was very much interested in watching in a recent news release on the screen the act of demolishing an apartment house here in Washington to make way for the new War Department Building. As I study the city of Washington the first thing I would say in describing the city is that it is built a good deal like an egg. An egg is dark in the middle and white around the edges. I think Washington fits that description, for in the very heart of the city, down Florida Avenue and southward of it west to Sixteenth Street, it is pretty dark in complexion. I am giving some thought to this condition.

In thinking of this matter of the location of the new War Department Building, I often wonder why the powers that be put it where they did. I am wondering why the great investment was made in locating the building to house the munitions branch of the War and Navy Department in a swamp where we must use sandbags to barricade any excessive rise in the Potomac River. I am wondering why we have a $50,000 fountain in the shadow of the Capitol yet flanked by some of the most miserable slums to be found anywhere. I am wondering why the beautiful street laid out by the man who designed this city, that great French engineer, Pierre Charles L'Enfant, with its beautiful squares and circles, why majestic Pennsylvania Avenue that runs from the Capitol to the Anacostia River, an avenue having four rows of beautiful trees its entire length, is in its present neglected condition. I am wondering why there is no more interest in Congress in the care and upkeep of what was designed to be one of the finest streets in the world, a street that was laid out so broad and wide in the "horse and buggy" days, broken with parked squares, the natural location for fine homes and apartments, why it is in its neglected condition right here in the shadow of the Capitol when we have spent so many millions of dollars in

building the magnificent Supreme Court structure, the Congressional Library, and its magnificent addition, the beautiful office buildings of both branches of the Congress. Why should we have such deplorable conditions along this avenue and in what we call the southeast section of the city, on what is known as Capitol Hill?

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. WHITE of Idaho. I yield.

Mr. RICH. Does the gentleman know who is responsible for placing the War Department Building where it is, a site which necessitated the tearing down of several apartment buildings, one of which cost $2,000,000? The naval appropriation bill, as I understand it, will provide for the construction of a building for the Navy Department. They are going to tear down more fine buildings and it seems ridiculous to me to do that. I think the gentleman would do a good thing if he found out who is responsible for such a program.

Mr. WHITE of Idaho. Mr. Chairman, I am wondering why that building is put down there in the swampy section of Washington when the development of the city is taken into consideration, when it is conceivable that some day it may be advisable to have subways around Washington to expedite the handling of Government business. How can you build a subway down in the swamps which are below the level of the Potomac River when we have such a beautiful addition up here on Capitol Hill?

I am told we have a Fine Arts Commission, a zoning commission, and a Park and Planning Commission in Washington. Go out into the northeast and southeast sections of the city and observe the results of their deliberations, their policies, and their plans.

[Here the gavel fell.]

Mr. RABAUT. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. WHITE of Idaho. Mr. Chairman, I am wondering why we leave these old and antiquated buildings flanking the Supreme Court and flanking the House and Senate Office Buildings, when we are at the same time spending millions of dollars tearing down magnificent apartment buildings in a city in which the rents are so high. In passing I would like to congratulate this city on being one of the few cities of the United States that enjoys two Christmases. I have gone down town and I have seen the Easter holiday crowds. I have never seen in any western or eastern city the stores jammed with people buying useless novelties in the holiday season as I have seen here in Washington during this wonderful Easter holiday. It must be a wonderful thing to be a merchant and to be in business in the capital of the United States with all these high-priced, well-paid civil-service employees, that nobody responsible to the people in the legislative branch of the Government can do anything about their policies, their labor, or the kind of service they give as we find them here in the capital of the United States.

May I suggest to the Park and Planning Commission and the zoning commission and the Fine Arts Commission that it might be worth while to take into consideration that some day we may want a better means of transportation and access to the several departments in the city of Washington. We lose a great deal of time getting to these departments and back here. It is very costly to the Government and to the Members. I am wondering why we could not locate these buildings somewhere around the Capitol of the United States and run a subway, as we have between the House and Senate Office Buildings and the Capitol, and have a quick, inexpensive means of transportation and a compact arrangement where these buildings would be located conveniently to doing the business of the Government rather than having them in some other sections away from the Capitol to boom real estate prices. I am wondering what the Planning Commission and the zoning commission is doing about that?

You know in this day and age people demand conveniences. They are not interested in living in some three-story building where they do not have janitor service, a telephone exchange, or elevators. How in the world can a property owner give those accommodations under the rules and regulations of our wonderful zoning commission? The plans of this zoning commission and the restrictions it puts on the development of this city make for the dark section in the central part of Washington. People go out where they can have unrestricted building designs and building plans. They abandon this central section. There is no way to replace these old, obsolete buildings under the rules of the zoning commission. What do you find? You find that the Capitol of the United States is inhabited by a class that is not progressive, by a class that is destructive to the development of this city. If you go down to the Federal Housing Administration and talk to them about improvements, they say "There is an infiltration into that section of undesirable people; we are not making any loans and we are not making any developments there." On whose shoulders is that responsibility? According to my idea it is based on an erroneous idea of this Park and Planning Commission and this wonderful zoning commission which is retarding the development of our Capital City and building up outlying districts in Maryland and Virginia. [Applause.]

[Here the gavel fell.]

Mr. STEFAN. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania, Mr. RICH.

Mr. RICH. Mr. Chairman, the gentleman from Idaho, who just preceded me [Mr. WHITE], seems greatly perturbed at some of the things that are happening in Washington by the New Deal administration. I am not surprised at anything that happens nowadays by this Congress, because I am expecting most anything. I have seen so much happen here in the last 10 years since I have been in Washington that most anything can happen and it would not surprise me at all—some good, but more bad than good, I must admit. If the worst comes to the worst, we have an administration that is responsible. Promises versus performances. The promises were not carried out. Why?

First, let me call the attention of these people, Members of Congress who are surprised, to the Democratic platform of 1932. Among other things it stated:

> We favor maintenance of the national credit by a Federal Budget annually balanced on the basis of accurate Executive estimates with revenues raised by a system of taxation levied on the principle of ability to pay.

That is a good plank for any platform.

Now, let me call attention to the deficits of this administration since 1934. In 1934 the deficit was $3,255,393,297; in 1935, $3,782,966,360; in 1936, $4,952,928,957; in 1937, $3,252,539,719; in 1938, $1,449,625,881; and last year $3,600,514,404. This year it will approach close to $4,000,000,000. Some deficits!

What does this mean? I hold in my hand a Treasury statement of March 26. Since last July we have gone into the red to the extent of $2,667,639,483.12, notwithstanding the fact that our internal-revenue collections this year were 30 percent above those of last year.

They have all been applied to this deficit up to this time. That means that in 270 days you have been going in the red at the rate of $9,880,150 a day. It means that every hour of the day you are going in the red $411,700, and for every minute of the day you are going in the red $6,861, after the promises this administration made when they were seeking election by the American people—8 long years on the road to bankruptcy; 8 long years of terrible deficits.

But that is not all. I could recite to you many, many times just what the President of the United States said when he was seeking election and what he said after he came into office asking for economy in government. Let me call your attention to the fact that on March 10, 1933, the President presented a message to the House of Representatives and the Senate in which he said:

> The Nation is deeply gratified by the immediate response given yesterday by the Congress to the necessity for drastic action to restore and improve our banking system. A like necessity exists

with respect to the finances of the Government itself which requires equally courageous, frank, and prompt action.

For 3 long years the Federal Government has been on the road toward bankruptcy.

For the fiscal year 1931 the deficit was $462,000,000.

For the fiscal year 1932 it was $2,472,000,000.

For the fiscal year 1933 it will probably exceed $1,200,000,000.

For the fiscal year 1934, based on the appropriation bills passed by the last Congress and the estimated revenues, the deficit will probably exceed $1,000,000,000 unless immediate action is taken.

Thus we shall have piled up an accumulated deficit of $5,000,000,000.

He was speaking about the former administration, and when we remember that his administration is in its eighth year and has piled up a deficit of over $25,000,000,000, I wonder what he thinks about it. Mr. Hoover was only one-fifth as extravagant as Mr. Roosevelt.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield?

Mr. RICH. I cannot yield now. I will yield when I finish this statement.

Let me quote further from this message of President Roosevelt:

With the utmost seriousness, I point out to the Congress the profound effect of this fact upon our national economy. It has contributed to the recent collapse of our banking structure. It has accentuated the stagnation of the economic life of our people. It has added to the ranks of the unemployed. Our Government's house is not in order, and for many reasons no effective action has been taken to restore it to order.

Upon the unimpaired credit of the United States Government rest the safety of deposits, the security of insurance policies, the activity of industrial enterprises, the value of our agricultural products, and the availability of employment. The credit of the United States Government definitely affects these fundamental human values. It therefore becomes our first concern to make secure the foundation. National recovery depends upon it.

Too often in recent history liberal governments have been wrecked on rocks of loose fiscal policy. We must avoid this danger.

It is too late for a leisurely approach to this problem. We must not wait to act several months hence. The emergency is accentuated by the necessity of meeting great refunding operations this spring.

We must move with a direct and resolute purpose now. The Members of Congress and I are pledged to immediate economy.

I am therefore assuming that you and I are in complete agreement as to the urgent necessity, and my constitutional duty is to advise you as to the methods for obtaining drastic retrenchment at this time.

I am not speaking to you in general terms. I am pointing out a definite road.

That is the statement the President made in his message to the Congress on March 10, 1933, and ever since that time he has been doing exactly what he promised the people of this country he would not do, before he was elected and after he was elected. He sure did get off the road.

The gentleman who just preceded me seemed to be very much agitated about what is happening in the Capital. I am very much agitated about what Congress has done and what the Congress is going to do. Ever since January we have seen newspaper headlines to the effect that the Congress of the United States was going to economize. We have seen the Senate of the United States pass a resolution asking that a joint committee of the House and the Senate be established to try to get together to work out things on a good, sound business basis. The Senate passed the resolution but the House has taken no action whatever on it. What is the result? They are just going hog wild, in appropriations and expenditures; they are just running in the red, as I stated awhile ago, at the rate of almost $8,000 a minute, and no head of this Government is trying to do anything to stop it. Neither the Speaker of the House nor the majority leader or any of the chairmen of the various committees have got together to try to work out a plan whereby they could make revenues equal outgo. They are piling up this deficit on the heads of the children of oncoming generations. If we cannot meet the situation in this day, how are our children going to be able to meet the situation? If you have a boy or a girl in your house, you know what they are confronted with. It is either bankruptcy or ruin, unless we change the conditions as they are at the present time.

Mr. SMITH of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. The gentleman ought to be fair to the President. The President wanted to abolish this debt—he said he did. I think he is abolishing it, do not you? You know, this thing we once called debt the New Deal has transformed into a credit.

Mr. RICH. They have taken jack rabbits out of the hat ever since they have been in office, and the people of this country should realize it by this time. If they ever put Mr. Roosevelt back in office again we will lose our form of Government, because he does not know how to run it. For 7 years he has been trying. Nine million men were unemployed when he came into office and now, in the eighth year of his administration, 9,000,000 men are unemployed, and the Government is going further into the red and the situation is getting worse every minute of the day. Why does he not do as he promised he would do.

Let me read to you what the President of the United States said before his election. You see if this is not a sound statement, and then see what a back flipper he has turned out to be.

We are not getting an adequate return for the money we are spending in Washington; or, to put it another way, we are spending altogether too much money for Government services that are neither practical nor necessary. And then, in addition to that, we are attempting too many functions. We need to simplify what the Federal Government is giving to the people.

I accuse the present administration—

He was speaking then about the former administration—

of being the greatest spending administration in peacetimes in all our history. It is an administration that has piled bureau on bureau, commission on commission, and has failed to anticipate the dire needs and the reduced earning power of the people. Bureaus and bureaucrats, commissions and commissioners have been retained at the expense of the taxpayer.

He said this in his speech at Sioux City, Iowa, on September 29, 1932.

Now, let me show you what that gentleman in the White House has done since he has been in office, and this is a terrible situation. He has set up 31 major functions of government, and he has no less than 1,476 subsidiary organizations and corporations administered by these 31 great functions of Government; and what has been the result?

Mr. HOFFMAN. Will the gentleman yield? Let me tell the gentleman what he promised.

Mr. RICH. We all know what he promised; but can you show me where he carried out his promises?

Mr. HOFFMAN. Did you read this one:

It is my pledge and promise that this dangerous kind of financing shall be stopped and that rigid governmental economy shall be fostered by a stern and unremitting administration policy of living within our income.

Do you remember that one?

Mr. RICH. Well, he has always been long on promises but short on performance. Just let me give you one illustration. Since George Washington took office up to the present administration, which includes all the five wars and the great World War, our receipts were $91,586,076,130. Since Mr. Roosevelt took office, less than 8 years ago, he received $40,089,857,957. He received 43 percent of all the moneys that were received since the beginning of this Government. Now, what did he do in the way of expenditures?

Mr. MAGNUSON. Mr. Chairman, will the gentleman yield?

Mr. RICH. I cannot yield until I give you this information, and you ought to know what this is, too. [Laughter.]

Since George Washington and up to the time Mr. Roosevelt took office, the country spent $112,203,367,065. Since Mr. Roosevelt took office on March 4, 1933, or less than 8 years ago, he has spent $65,628,526,692, which is 58 percent of all the money we have received from the time of George Washington up to the present day. Think of it! All the debts, including all the five wars, amounted to $20,617,290,935 when he took office. Since he has been in office he has spent $25,538,668,735 more than we received and put us in the red to that extent. This means that the national debt, which

was $22,538,672,164 when he came into office, is now over $44,938,577,622, about 100-percent increase, and that includes all the assets that he has figured 100 cents on the dollar in the great number of corporations we have established in this country during his administration; and what will be the result when we go to liquidate those corporations that he has established? You know and I know we have many corporations with assets figured 100 cents on the dollar, and we will take a dreadful loss when they are liquidated.

Mr. MAGNUSON. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield now.

Mr. MAGNUSON. I appreciate the gentleman's sincere desire for economy. The gentleman in his speech a moment ago mentioned the creation, I believe, under the Roosevelt administration of some 32 new departments of government. I am wondering if the gentleman will inform the House, in his own service during the Roosevelt administration, just how many of these agencies the gentleman voted against creating.

Mr. RICH. I voted against pretty nearly everything that this administration brought up except the Economy Act, and I was very badly fooled on that, because I thought that the President of the United States, when he brought in the Economy Act, was going to do what he said he would do; but he fooled and humbugged the people until in March 1934, when he asked for $4,880,000,000 in House Joint Resolution 117, and section 6 of that resolution read something like this: Anyone criticizing the administration or the handling of this fund will be fined $5,000 or imprisoned for 2 years. I made up my mind then that the President of the United States wanted to be a dictator or he would never have had that language put in a bill, and I left him then and have had little confidence in him since. I believe in honesty and thrift.

[Here the gavel fell.]

Mr. STEFAN. Mr. Chairman, I yield the gentleman from Pennsylvania an additional 5 minutes.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield just for a question.

Mr. WHITE of Idaho. I would like to discuss——

Mr. RICH. No; you cannot discuss; make it a question.

Mr. WHITE of Idaho. I find myself more in accord with the gentleman on his criticism of the spending program——

Mr. RICH. I thank the gentleman very much. I cannot yield any further. [Laughter.]

Mr. WHITE of Idaho. I would like to ask the gentleman a question.

Mr. RICH. I cannot yield further. Lots of Democrats tell me that they are in accord with me in economy, but when it comes to voting they always do the opposite; they vote money out of an empty Treasury.

Mr. WHITE of Idaho. I want to develop the position of the gentleman on spending. Will the gentleman yield for a question?

Mr. RICH. I cannot yield.

The CHAIRMAN. The gentleman from Pennsylvania declines to yield.

Mr. RICH. Mr. Chairman, let me call attention to what has been doing this session of Congress. Notwithstanding the fact that the House said they were going to be for economy, and the Senate said that they were going to be for economy, and this is a New Deal House and a New Deal Senate, yet Congress has appropriated to date as follows:

Agriculture (passed the Senate)	[1] $922,911,213.00
District of Columbia (reported to the House)	48,291,717.00
Independent offices (passed the Senate)	1,139,783,528.00
Interior (passed the House)	118,578,187.05
Labor–Federal Security (passed the House)	1,021,639,700.00
Legislative (passed the House)	23,907,744.00
Navy (passed the House)	965,779,438.00
State, Justice, and Commerce (passed the Senate)	107,079,000.00
Treasury and Post Office (law)	1,032,801,095.00
War Department, civil (passed the House)	203,472,567.00
Emergency, supplemental (law)	252,340,776.00
Urgent deficiency (law)	57,541,300.00
First deficiency (passed the Senate)	91,533,408.52
A grand total of	5,985,659,673.57

[1] In addition, $90,000,000 made available from R. F. C. funds.

You have spent $5,985,659,673.57 to date. Let me call your attention to the total receipts of last year, 1939, $5,667,823,625. That means that you have already appropriated more than $300,000,000—more than you took in in 1939 in taxes. The estimated receipts of the President for 1940 are $5,703,795,000. There are other appropriation bills to come before the House. There will be the relief bill, and what is going to be the result next year? You promised faithfully and every one of you fellows that went in on the platform in 1932 told the people of this country that you were going to have a balanced Budget. I realize that you cannot balance the Budget at once, but you are not making any honest effort to do anything. That is what burns me up. You are not making an honest effort to cut down expenses. You could do a whole lot if you wanted to do it or desired to do it. And it is a shame that you do not. You ought to try to get a business organization here for Government operation. The great difficulty is that there is no leadership, there is no organization, because, if there was, you would not do what you have done here this week in spending. All we seem to do is appropriate money. We had a bill up here on Monday of this week to bring taxes in for the District of Columbia. When we had this present District of Columbia appropriation bill under consideration in the Appropriations Committee the other day I asked the chairman of the subcommittee whether he tried in any manner to cooperate with the District Committee, to find out just what taxes would be necessary in order that they might balance the budget for the District of Columbia.

To my surprise he said they did not need any additional taxes in the District of Columbia. I then asked whether that was the reason why they voted against the tax bill last week. I asked that in good faith, and I thought to myself that I had better talk to the mayor of the city and get his reaction to the tax bill and why it was brought in here if it was not needed. So I went to the mayor of the city, Mr. JENNINGS RANDOLPH, a mighty fine fellow, and I said to him, "Mr. Mayor, what did you bring this tax bill in for? The Appropriations Committee says that you do not need any money or any additional taxes." He stated the tax experts of the District said it was necessary. Whom am I to believe? Why did not the Appropriations Subcommittee and the District Committee get together? That is the point I want to make. Why does not the Speaker of the House call the majority leader and the chairmen of the various committees into conference, to get together on good orderly business procedure, and try to find out what our income is and what the outgo will be, and what deficit we are going to pile up on the children of the oncoming generations? What are we going to do to protect this Nation? What are we going to do to save America?

Mr. President, why not carry out your promises of economy? Why not cut out unnecessary functions of Government as you promised? Why not have economy in Government as you promised? For the sake of our children and our country, if you do not soon get away from this program of ruthless spending, we will go bankrupt and we will lose our form of government.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. RABAUT. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. HOOK].

Mr. HOOK. Mr. Chairman, you will recall the Pelley-Dies letter affair in which David D. Mayne, under oath before the Dies committee and before the Rules Committee, admitted the crime of forgery. He also admitted perjury and selling these letters for money to fool certain persons and in order, in his own words, to "put them out on a limb." Gardner Jackson and Harold Misberg, under sworn complaint before the United States district attorney, charged Mayne with perjury, forgery, obtaining money under false pretenses, and conspiring with unknown persons to violate a Federal statute. A grand jury was empaneled and listened to testimony concerning this affair. The investigation was conducted by David A. Pine, United States district attorney for the District of Columbia, assisted by Mr. Wilson, assistant district attorney. That jury, after deliberation and after

hearing the assistant district attorney, has reported and failed to indict this self-confessed perjurer and forger, even though I am further informed that David Mayne refused to testify before the grand jury, giving as his reason that his testimony might incriminate him. I thought it might be interesting for you to know now that it is not considered a crime in the District of Columbia to commit forgery or perjury.

The grand jury, not having brought out an indictment of forgery against David D. Mayne who, under oath before the Dies committee and the Rules Committee, testified he forged the letters, any reasonable person must come to the conclusion that they must have based their decision on the fact that the letters were not forged but genuine. If the letters are genuine, according to the action of the grand jury, then, of course, they should be replaced in the CONGRESSIONAL RECORD because they were taken out after David D. Mayne testified that he forged them.

Is this action on the part of the United States District Attorney David A. Pine, and his assistant, Mr. Wilson, to be construed to mean that the so-called Pelley letters were not forged?

I know that the people of this Nation are still in a quandary about the Pelley-Mayne affair before the Dies committee. Pelley, whose aims are admittedly the same as the Dies committee, is still at large. David Mayne, who was employed by the Dies committee, the perpetrator of these crimes, is now free. I wonder why? You can use your own imagination as to what must have happened, because David D. Mayne is reported to have boasted of protection by the Dies committee and its investigators. William Dudley Pelley, in his publication, Liberation, several weeks ago, carried the story that Mayne was entitled to protection from the Dies committee. Probably a resolution for a special committee to investigate this whole affair would be in order.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. HOOK. I yield.

Mr. HOFFMAN. I did not get the drift of it. What is the complaint? Is it that Mayne is not being prosecuted?

Mr. HOOK. Yes; that is right.

Mr. HOFFMAN. What crime did he commit?

Mr. HOOK. Was not the gentleman before the Rules Committee, and did he not hear the evidence?

Mr. HOFFMAN. I understand that Mayne——

Mr. HOOK. Forged letters.

Mr. HOFFMAN. Yes.

Mr. HOOK. Perjured himself and obtained money under false pretenses.

Mr. HOFFMAN. Well, just a moment. I do not know anything about obtaining money under false pretenses, but I am getting at this matter of perjury and forgery. There cannot be forgery unless it is in connection with some judicial proceeding. I do not hold any brief for Mayne, but what is the specific crime what you want Mayne indicted for?

Mr. HOOK. I mentioned all of them. The testimony has gone before the grand jury.

Mr. HOFFMAN. I am not critical, now, as the gentleman may think.

Mr. HOOK. That is up to the grand jury.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. HOOK. I do.

Mr. TABER. I wonder if the gentleman could tell us why the various district attorneys have not prosecuted the 22 indictments for income-tax frauds in Louisiana and why they have not prosecuted the indictments against Smith and Shushan for selling W. P. A. jobs, which were handed down last summer in New York City?

Mr. HOOK. If I were United States District Attorney, I could answer the gentleman, but I am not, and I am not a mind reader nor a crystal gazer.

[Here the gavel fell.]

Mr. RABAUT. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia [Mr. RANDOLPH].

Mr. RANDOLPH. Mr. Chairman, at the outset I want to state that personally I appreciate the painstaking labor which has been given to the District of Columbia appropriation bills by Members charged with that responsibility. The gentleman from Florida, Chairman CALDWELL, has done a good job, and I commend him and his fellow subcommittee members. Theirs is not an easy task. Of course, they are only face to face with District problems once a year, whereas those of us who serve on the legislative committee for the District of Columbia in this House are face to face with those problems practically every day, and at least every week, during the sessions of Congress.

I feel that there is an obligation on my shoulders this afternoon to briefly discuss the need in the District of Columbia for giving bona fide residents in the United States Capital City the right and responsibility of franchise. I am well aware that there is a difference of opinion on this subject, and I know the arguments which are raised about suffrage for voteless citizens who live in this jurisdiction. I have weighed all of the arguments for and against, that I am able to study and inquire into, and my opinion on this matter is strengthened each year that I serve in Washington. I believe these are at least three local newspapers—the Star, the Post, and the Times-Herald, who editorially are fighting for the vote here. I feel more and more inclined to energetically, on every opportunity, speak in behalf of suffrage for the District of Columbia. I think it is significant that the distinguished and able chairman of the House Committee on the Judiciary, Judge SUMNERS, of Texas, a man who has had long and faithful service in this body, after studying this question, has seen fit, in the last few months, to introduce a resolution which would call for national representation for the District of Columbia. I am told that there was a time when Judge SUMNERS, of Texas, did not believe there was need for suffrage here, but I know that the very introduction of the resolution by that legislator has come about through a growing conviction that he believe the cause is just. I regret that I, myself, and others have not been able, through legislative means, to bring this matter to the floor of Congress for debate, discussion, and vote.

I feel keenly that the 250,000 men and women who reside in Washington and can claim no bona fide residence in any State do not possess the responsibility and the inherent right to exercise their vote for President of the United States and for representation in both Houses of the Congress, and also for some form of local government.

I regret there are not more Members present while we are considering the District of Columbia appropriation bill, and, without criticism of any Member, I only wish the debate itself might center more fully around District matters. I say to those who are on the floor this afternoon that I cannot believe we can longer continue in this country to deny bona fide residents the privilege of voting in Washington, D. C. I do not feel that there is a section of America where the processes of democracy should not be fully at work. I hope Members of Congress will give more thought to the subject matter of my remarks.

[Here the gavel fell.]

Mr. CALDWELL. Mr. Chairman, I yield 2 additional minutes to the gentleman from West Virginia.

Mr. MAGNUSON. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. MAGNUSON. I cannot help but rise here this afternoon and make a statement of commendation of the District of Columbia Legislative Committee and the District of Columbia Subcommittee on Appropriations. As the gentleman from West Virginia knows, the gentleman from Idaho made a pessimistic review of conditions in the District of Columbia a few moments ago. It seems to me—and I believe the gentleman from West Virginia will agree with me, a gentleman who is referred to from time to time as the mayor of the District—that Congress gets out of the District of Columbia just what it puts into it. We do not put a great deal into it. This is evidenced by the fact that this afternoon there are but a baker's half-dozen on the floor when the District bill is under consideration. It is no easy job to

serve on these District committees. It is common knowledge in the House that when a new Member comes here he tries to shy away from the District Committee because it does not get a Member any votes back home, one must do much additional work, and frequently take a lot of abuse. I believe the legislative committee and the Appropriations Subcommittee on the District of Columbia deserve the gratitude and thanks of this Congress and the people of the District; but, as I say, Congress gets out of this District just what we put into it. If Congress would pay more attention to the District, such conditions as those complained of would not arise.

Mr. RANDOLPH. I thank the gentleman for his observation.

Mr. HOOK. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. HOOK. The gentleman has made a great study of the question of suffrage for the District of Columbia. Would he inform us whether or not the District of Columbia ever had the right of suffrage, and whether they asked that Congress take it back, and why?

Mr. RANDOLPH. There was a limited suffrage here, but I do not have time to go into that lengthy question.

The present feeling of the residents of the District of Columbia is clearly indicated by the results of a referendum they themselves conducted here on April 30, 1938. They voted before and after working hours. They spent their own money in that election and had no help from any Government agency. Practically 95,000 persons voted—all bona fide residents—and they were in favor of national representation by 9 to 1 and local suffrage by 7 to 1. They went voluntarily to the polls. There were no candidates to transport them there. They went and expressed their opinions on a vital subject. It was one of the most outstanding expressions of genuine public opinion that this Nation has ever seen.

I venture the assertion this afternoon that the time will come when suffrage in local government and national affairs will be granted the residents of the District of Columbia, as it is in the other parts of the Nation. [Applause.]

[Here the gavel fell.]

Mr. STEFAN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. JOHNS].

Mr. JOHNS. Mr. Chairman, I arise at this time to say a few words to the Members of this House on what to me is one of the most important problems that has been before this House during this session and is now up for discussion and a vote in the Senate either today or not later than Monday.

There are several questions that I would like to have those handling the treaties answer before this power is extended to the President and the Secretary of State to continue to renew these treaties or make new ones.

First of all I would like to know why, after the tariff on cheese had been reduced 2 cents a pound under the first treaty with Canada had been entered into and the dairy farmer had been having a hard time to meet his obligations at that time, another reduction of 1 cent a pound was made in 1938, or a 20 percent reduction when cheese had been selling all that year at an average of 12.6 cents per pound?

Every dairyman knows that cheese at 12.6 cents per pound represents only about two-thirds of the cost of production. The Agriculture Department should have known this and if they did not know, then they should either get someone in the department that does know or discontinue the department having to do with dairy products. We have been paying enough money to the Department that they ought to know. Personally I would like to know who in the Department of Agriculture recommended this reduction of almost 50 percent in the tariff on cheese.

The dairy interests of this country are entitled to consideration the same as those producing other agricultural products, and if they do not get it there is going to be trouble in this country and it is not going to be confined to the dairy interests alone.

If anybody had taken the time to figure the cost of production of cheese and butter, they would have known that the reduction of the tariff on cheese would kill the industry in time.

In order to do this, I want to give you some figures on our investment in dairy cattle, the amount of dairy products we produce and some values of these products. I would like then to give you some facts and figures on imports and exports of dairy and other products which, either directly or indirectly, affect our daily life.

On January 1, 1939, we had 2,179,000 head of dairy cattle on farms in Wisconsin; Minnesota ranked next with 1,705,000, and Iowa third with 1,472,000 head; Texas fourth with 1,458,000 and New York fifth with 1,423,000 head.

The total milk production for Wisconsin alone in 1938 was 11,862,000,000 pounds and approximately 12,000,000,000 pounds in 1939. This figure for 1938 is about 484,000,000 pounds greater than the State's output in 1937. The average value of dairy cows in Wisconsin on January 1, 1939, was $69 per head, or a total value of $150,351,000. The average value per head on January 1, 1938, was $72. The total value of all dairy cattle in the United States on January 1, 1939, was $1,397,280,000.

The price of fluid milk during each month of the year 1938 was lower than for the year 1937, and the average loss to the Wisconsin farmers was about $1,000,000 each month.

In addition to the cheese we produced in the United States in 1937, we imported into this country about 60,000,000 pounds. Under reciprocal trade agreements this meant a loss to the Wisconsin farmers of about $1,000,000. The price paid to the farmers for livestock in 1938 averaged 12 percent lower than in 1937.

In 1935 the agricultural population of all the United States was placed at 31,800,907. This is about 25 percent of our total population.

The population of the 5 leading dairy States I have named is approximately 6,000,000 people. I figure the farmers raising cotton, corn, and wheat represent about 3.1 percent of our national income and have received millions in subsidies during the last few years. The dairy farmer has received nothing in subsidies.

We were able during the last session of Congress to get one hundred and twenty-five millions to buy surplus commodities, but this was given so the corn, cotton, and wheat growers might get larger amounts in subsidies as well as a substantial portion of the one hundred and twenty-five millions.

The Secretary of Agriculture pleaded with Congress for the one hundred and twenty-five millions to keep farm prices from going lower than in 1932.

The butterfat prices on my own farms between 1922 and 1932 averaged 46 cents per pound. They reached a low of 28 cents per pound in August 1938. I delivered all my milk to cheese factories.

Wisconsin farmers also received agricultural-relief payments made for crop reduction, rental and benefit checks, and payments for conservation of soil resources from 1933 to 1937, $24,479,202.29. This amount was paid to 18,416 farm families, numbering 78,382 people.

However, with all this help, Federal farm foreclosures in Wisconsin were three times as many in 1938 as in 1936—2 years earlier. The Federal land bank and land bank Commissioner foreclosed 1723 farm mortgages in Wisconsin in 1938, compared with 542 in 1936.

Foreclosures were particularly heavy in northern counties. I shall only call your attention to some counties in my own district, which may be considered the average in the State. Marinette had 5 foreclosures in 1936 and 39 in 1938; Oconto County, 6 in 1936 and 38 in 1938.

In some of the counties in my district where 15 years ago a foreclosure was seldom heard of, we find in 1938 foreclosures in both farm and city; 74 foreclosures in Brown County, Outagamie 88, Manitowoc 116, Oconto 71, Marinette 70, Kewaunee 21, and Door 39.

Now, let us take up and discuss the subject of reciprocal treaties and see if there is any possible casual connection between them and some of the conditions prevailing in the great dairy State of Wisconsin.

First of all I would like to call your attention to the fact that the treaty-making power under the Constitution of the United States rests with the President of the United States and the United States Senate. Subsection (1) of section (2) of article 2 of the United States Constitution provides:

He (the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

However, in 1934, this power given to the President and the Senate of the United States under the Constitution, was delegated by Congress to the President and Secretary of State, to enter into trade treaties with foreign nations.

Grave doubt exists whether Congress had the right or power to do this, but it has never been tested out in the courts.

This power expires on June 12, 1940, and the question arises, Should it be extended? This will depend upon what the American people think at this time. We have entered into some 24 treaties.

Now, let us see what has happened as a result of these treaties.

Dairymen know that the price of cattle is affected, the price of hogs also; and cream, butter, cheese, and all byproducts of milk.

In order to get a more complete history of our subject, we must go back to 1920–21, when there was a change of administration and Congress passed a farmers' emergency tariff to stop the importation of foreign products which were displacing American products and depressing all prices.

Under this act exports grew from $3,832,000,000 in 1922 to $5,241,000,000 in 1929, and our imports from $3,113,000,000 in 1922 to $4,339,000,000 in 1939.

In 1933 the present administration came into power, and in 1934 the treaty-making power was transferred as heretofore stated.

Treaties were entered into with Canada and some 23 other countries. I shall not go back to quote you figures, but it will be sufficient to give you some recent figures.

Take the item of cattle. In 1934 we exported 9,968 and imported 59,000 head. In 1935 we exported 3,348 and imported 365,000 head. In 1936 we exported 4,240 and imported 309,000. In 1937 we exported 4,132 and imported 494,945. For the first 9 months of 1938 we imported 295,000 head, and for the year 1939 we exported 2,918 and imported 753,570 head.

Now let us turn to live hogs—they go well with dairying. In 1924 we exported 3,052 head and imported 8,000 pounds of live hogs. If they weighed on an average of 200 pounds to a hog, it would be 400 head.

In 1935 we exported 303 head, but we imported 3,414,000 pounds, or at an average of 200 pounds to a hog, over 17,000 head.

In 1936 we exported 202 head and imported 17,446,000 pounds, or at 200 pounds per head, 87,230 head.

We have heard much about canned meats. In 1934 we exported 16,362,000 pounds and imported 46,781,000 pounds. In 1935 we exported 12,564,000 pounds and imported 76,653,000 pounds. In 1936 we exported 13,348,000 pounds and imported 87,959,000 pounds. In 1937 we exported 13,752,000 and imported 88,087,000, and for the first 8 months of 1939 we exported 83,404,580 pounds and imported 93,228,235 pounds.

Now, let us take up a more interesting article—butter. In 1934 we exported 1,253,000 pounds and imported 1,220,000 pounds. In 1935 we exported 958,000 pounds and imported 22,675,000 pounds. In 1936 we exported 826,000 pounds and imported 9,874,000 pounds. In 1937 we exported 800,000 pounds and imported 11,111,000 pounds, and for the first 8 months of 1939 we exported 1,285,344 and imported 702,500 pounds of butter.

I have saved the most interesting item for the last—cheese. In 1934 we exported 1,377,000 pounds and imported 47,533,000 pounds. In 1935 we exported 1,152,000 pounds and imported 48,923,000 pounds. In 1936 we exported 1,136,000 pounds and imported 59,849,000 pounds. In 1937 we exported 1,156,000 pounds and imported 60,650,000 pounds. For the year 1939 we exported 1,479,689 pounds and imported 59,071,059 pounds.

One item you will be interested in, that of corn. In 1934 we exported 2,987,000 bushels and imported 2,959,000 bushels. In 1935 we exported 177,000 bushels and imported 43,242 bushels. In 1936 we exported 524,000 bushels and imported 31,471,000 bushels. In 1937 we exported 5,834,000 bushels and imported 86,337,000 bushels.

Hay: In 1934 we exported 2,185 tons and imported 23,259; in 1935 we exported 2,718 tons and imported 67,171; in 1936 we exported 2,161 tons and imported 73,976; in 1937 we exported 41,400 tons and imported 146,149.

The farmers and dairymen are interested in their surplus barley, and barley malt, of course, is made from good Wisconsin barley. I find that we exported 25,968,000 pounds of barley malt during the year 1939 and imported 101,130,100 pounds.

Another item that goes into feed of the dairy farmer is that of oats, and I find that we exported 226,142 bushels for the year 1939 and imported 4,293,009 bushels.

I know that you will bear with me for a few minutes if I discuss an item which truly may not be classed as a dairy product but which affects the products of the dairy farmer materially, and that is the fur industry in Wisconsin and throughout the United States. If our fur producers in Wisconsin are prosperous, there is a good deal of money to be spent for dairy products, and if they are bankrupt they can buy just that much less. I find upon investigation, including the silver and black fox, which are very predominant in this State, and also the red fox, and all other kinds, that we exported from this country 43,804 during the first 9 months of 1939, and we imported 556,859. During the same period we exported 148,973 mink skins, and we imported 739,251. These were all undressed furs. Now, the dressed and dyed fox, both silver and black, for the same period, we exported 817 and imported 54,712.

We produce in Wisconsin very high-class furs, while a large majority of furs imported from foreign countries are of a cheaper type. I could go into a number of other articles affecting the dairy farmer, but I feel that I have given you sufficient facts and figures to give you some idea of whether we really are benefited by reciprocal treaties or not. Of course, the sole purpose of entering into these trade treaties was to assure us that our exports would increase decidedly with the countries with which we made the reciprocal treaties over those with which we did not have any treaties. Facts and figures do not bear out these promises, because for the first 9 months of 1939, compared with the first 9 months of 1938, a great increase in agricultural imports into the United States and a great decrease of agricultural exports from the United States has taken place. In the first 9 months of 1939 we imported farm products for consumption in the amount of $794,700,000, while in the same period in 1938 we purchased farm products in the amount of $711,600,000. For the same periods our agricultural exports declined from $602,700,000 in 1938 to $418,400,000 in 1939.

You can take the item of corn alone. During the first half of 1938, $30,000,000 of corn was exported to Canada, but less than $1,000,000 worth was exported in the same period in 1939.

I want to take just a little of your time to cite a few instances comparing the average exports in 1934 and 1935 with 1937 and 1938 to show whether we have been benefited by these trade treaties or not, and to do this I am going to call your attention to countries with whom we have trade agreements and those with whom we do not have any. Let us first turn to Latin America. For instance, in the case of Colombia and Guatemala the exports increased 84 and 18 percent, respectively. These are both treaty countries. However, our exports to Venezuela, a nontreaty country, increased by 161 percent. On November 7, 1939, we signed a trade agreement with Venezuela. Of course, the State Department does not give this information in their releases on the trade treaties.

Now, let us take two other countries, similarly situated—Brazil and Argentina. We have a treaty with the former

but did not have any with the latter until November 6 of last year. Our exports to Brazil, the treaty country, increased 56 percent, but exports to Argentina, a nontreaty country, increased 97 percent.

We will now turn to Europe and see what kind of a comparison we find there. We have a trade treaty with Sweden but not with Norway; yet our exports to Norway increased in almost the same percentage as in the case of Sweden, 80 percent as against 81 percent. Thus, all we got out of the treaty with Sweden, after making numerous concessions to her in the American market at the expense of our own producers, was a 1-percent greater increase in exports than to Norway.

The great conservation program of the Government, which I have always been interested in, but rather doubtful as to any benefits to be gained from it, we have taken out of production 40,000,000 acres of land, and have been paying the farmers for not producing on it, is offset by placing into use some 67,000,000 acres through irrigation and other means of placing land into production.

You may be interested in knowing just how this distribution has been made, and who is getting the money, and the expense connected with the program, which most dairy farmers have participated in. I would not give this to you but it enters into the reciprocal treaty set-up, because it takes out of use land in this country that we could produce the farm products on that are imported into the United States.

During the years 1937 and 1938 there were approximately 6,000,000 farmers in this country participating; 3,657,000 of these farmers and landowners received benefits under the soil-conservation program. About $315,500,000 was actually spent in payments to the farmers for soil conservation, and $43,500,000 for administration expense.

If the $315,500,000 were evenly distributed to those who complied with the soil-conservation plan the average payment would be approximately $100.

But here are some figures to which I want to direct your particular attention. Out of 3,657,000 farmers 1,091,540, or almost one-third of them, received less than $20 each. There were 773,000 who received between $20 and $40 each; 500,000 who received between $40 and $60 each; and 556,000 who got between $60 and $100.

If the one-third of all farmers who received less than $20 annually, averaged as much as $15 each, and that is a liberal estimate, $15,000,000 would pay their bill.

If the 774,000 farmers who received between $20 and $40 each, received an average of $30, $22,000,000 would have paid their contracts.

Then, as to the 500,000 farmers who got less than $60, if they received an average of $50 each, $25,000,000 would pay them.

Then we have 556,000 farmers who received between $60 and $100. If their average payment was $80, and this is liberal, they would have received $44,480,000.

In other words, with $107,000,000 we paid approximately 3,000,000 farmers. Or, putting it another way, 80 percent of all the farmers received less than one-half of the funds allocated to the farmers and farm operators. Just think of it, only a comparatively few of the 3,000,000 farmers got as much as $100. As a matter of fact, they received an average of less than $50 each.

Furthermore, it took approximately $18,000,000 to pay the administration expenses in Washington and in the States, and it took $26,000,000 for county expenses, making a total of $44,000,000 for administering the fund.

This is more money than was actually paid to 1,880,000 farmers, being more than half of those who participated in the program, and who got less than $40 each. These farmers received thirty-eight and one-half million dollars, and it took $44,000,000 to administer the fund.

After deducting the $107,000,000 which was paid to the 3,000,000 farmers, we have a balance, in round figures, of $208,000,000, which was divided among the remaining one-fifth of the farmers.

So it would appear that the remaining one-fifth of those who took part in this program in 1937 received approximately $200,000,000, or two-thirds of the amount actually distributed in soil-conservation payments.

I have given this explanation to you because so many farmers get the idea that they have received, or are receiving, a large amount of money from the Government, while in fact it is a very small amount considering the tremendous increase in the tax burden during the last 10 years. You may be interested in knowing the amount that the State of Wisconsin has received during 1936, 1937, and 1938 for the agricultural-conservation program. In 1936 Wisconsin received $11,307,000; in 1937, $8,134,000; and in 1938, $9,777,000. In 1933–34 the Government, through the Federal Surplus Commodities Corporation bought in the open market in round figures $14,000,000 worth of dairy products for the purpose of supporting dairy prices and distributed them through the relief administration. In 1934–35 between $5,000,000, and in 1935–36 a similar amount was used for the same purpose. In 1936–37 approximately $10,000,000 was used in buying the surplus that was weighing down the dairy markets. In 1937–38 this amount was increased to $15,000,000. And for the current fiscal year, the Government, in order to relieve the market, is setting aside $4,000,000 for the purchase of fluid milk, $2,250,000 for the purchase of dry skim milk, and $26,730,000 for the purchase of butter.

These sums do not include the loans made available to dairy farmers which with the above amounts aggregate an approximate total of $44,000,000 provided by the Federal Surplus Commodities Corporation for the relief of the dairy industry during this year.

I have given you a number of figures, which I doubt very much you will be able to retain for any great length of time, but they are fresh in your mind now, so let us see if we can find any reason for the great increase in imports of agricultural products into this country since the new treaties have been entered into.

Let us take up the first item—that of cattle. Under the Tariff Act of 1930 those weighing less than 700 pounds imported into this country the tax was 2½ cents per pound; those weighing 700 pounds or more, 3 cents per pound. Under the trade agreements the first item was reduced from 2½ cents to 1½ cents per pound up to 225,000 head.

Hogs, under the Tariff Act of 1930, a tax of 2 cents per pound was imposed for imports. This was reduced under the trade agreements 50 percent, or to 1 cent per pound.

Canned meats, under the Tariff Act of 1930, were 3½ cents per pound for imports, and this was reduced under the trade agreements to 2 cents per pound.

Butter, under the Tariff Act of 1930, there was an import tax of 14 cents per pound. Under the agreement in 1935 this was left at 14 cents, but under the new agreement of November 17, 1938, this was reduced 2 cents a pound and is now 12 cents.

Cheese, under the Tariff Act of 1930, was taxed 7 cents a pound on imports, and under the trade agreement this has been reduced to 4 cents a pound, and in some instances cheese that is imported the tax actually amounts to 3½ cents per pound.

Tax on corn, under the 1930 Tariff Act, was 25 cents per bushel on imports. It has been reduced under present trade treaties.

The tax on hay under the 1930 Tariff Act was $5 per ton for imports. Under the treaty of 1935 it was left at $5, but when it was renewed in 1938 it was reduced 50 percent, or $2.50 per ton.

Oats, under the Tariff Act of 1930, was taxed 16 cents a bushel on imports, and under the new agreement this has been reduced 50 percent, or 8 cents a bushel.

I give you these comparisons so that you may see the reason for the price of farm products going down in the United States. If our own farmers had been permitted to produce the farm products that have been imported into this country by foreign countries, then the prices would be much higher

than they are now; but when foreign countries, who pay about one-tenth or less for the cost of production of these products than we have to pay to produce them, then they can ship them in here under the present tariff and undersell any of these farm products that our farmers can produce.

I have refrained from criticizing anybody for present conditions, but I feel myself personally that the tariff on farm products should be high enough so that the American farmer may get the cost of production plus a reasonable profit before permitting the goods to be shipped in from foreign countries that have been produced by cheap labor. Anyone who has been privileged to visit these foreign countries and can compare the standard of living of those countries with our own will realize at once that we cannot possibly compete with them.

Mr. STEFAN. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Chairman, I trust a few fighting Democrats may come in. I shall regret exceedingly if they are not present.

Mr. Chairman, I felt that this was a good time to carry on a sort of conversational argument, as it would not be difficult to be heard. I desire to make a few observations. Inasmuch as the chairman of the Committee on Expenditures is in front of me, I will explain to you why I have not this year, being the ranking man on the Committee on Expenditures, demanded a series of investigations. I have earnestly asked for so many in the past few years, and with no results, that I am simply tired of making such demands. I am forced to take this particular forum to make my remonstrances. I had a letter the other day asking me how many times I had demanded these investigations. This was probably because the writer had not noticed them of late and I feel called upon to explain. I desire to claim with some satisfaction on my part that during the last 7 years I have made many speeches on the floor of this House, feeling compelled to do so as the ranking man on the Committee on Expenditures. If ever a man could say with the greatest satisfaction, "I told you so," I am he.

Some 5 years ago I took the floor for 40 minutes, explaining that we would have a $7,000,000,000 Government permanently established. We have a $9,000,000,000 Government permanently established. In all predictions, when I was called the Jeremiah of the Republican Party—predictions as I foresaw them—what I portrayed was far below the full extent of the actual results. I spoke long ago about the asinine silver policy. It is more asinine, and so proven, than even I dared portray. I have complained about the gold policy. Everyone now is aroused and fearful about it. We have accumulated vast sums more than I ever predicted. Why was I so modest in these predictions? None of us dreamed of the continuous extravagance and "foolishments" of the New Deal before it could run its course.

I spoke about the morale of the people of the Nation. Contemplate it! Badly it was needed. Extravagantly showered over the Nation, even to the wealthiest communities, for vote-getting purposes. Morale! I may have illustrated before: He was injured on the job. The foreman met the little daughter and said, "When will your father probably be back to work?" She replied, "I don't think for a long time. Compensation has set in."

We are accustomed and hardened to receiving relief today. We do not hesitate to take it. Our cheeks do not burn when we ask for it. Rather our cheeks burn in anger if hesitation is shown in granting it. We have been spending many billions of borrowed money. I predicted 6 years ago a debt of $40,000,000,000. You might refer back to that time and note the ridicule following that prediction. Well, the debt is fifty billion now. It will be forty-five billion direct debt by next July and there are more than five billion more in notes that we have endorsed and guaranteed. It will be a direct debt of fifty billion before long. There is not the slightest chance of it being less.

The Democrats have built a house that even the Republicans cannot run decently without going into further debt. We cannot and do not tear down the house any administration has erected. We are forced to live in it. We can simply try to run it more efficiently. May I say to those Democrats who yesterday were so overjoyed at those large appropriations which they added "that he who sometimes grabs at the gravy falls into the soup."

It was rather sad for some of us here to watch the Democrats with such great glee raid the Treasury at the very moment when we are headed, as we certainly are, toward national bankruptcy. No nation ever did or can have constant deficits without inflation. That needs no argument. Everybody must know this danger. The Democratic Party must know it. But it is a habit of spending they have gotten into. We heard one of their great leaders on Wednesday, in a 5-minute speech, try to halt them. He stated that the economic stability of the Nation meant more to him than these appropriations. He pleaded most earnestly, but just as earnestly not very long ago he even threatened, as well as pleaded, that they vote for billions of dollars and the giving of blank checks that the President might shower the money unrestricted. So you see it is too late now for the leaders to check their former followers.

The country must have absolutely lost faith in the Democratic Party. We must change the occupant of the White House. Even the White House expenditures have increased its expenses 1,000 percent. If they listened to Mr. Dewey speaking over the radio last night the ears of Democrats must have burned red. He only gave facts—but so clearly and convincingly stated. I pause for a moment. No Democrat seems to want to interrupt me. I wonder why.

Mr. HOFFMAN. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Michigan.

Mr. HOFFMAN. There are only three or four of them here. Oh, there are more than that number.

Mr. GIFFORD. I took this time for their benefit. Some of us are very anxious that we have some change in the occupancy of the White House. This third term distresses me. However, I realize what a terrible state the Democrats are in, because other candidates would like to declare themselves, but hardly dare. Their punishment might be most drastic. My Massachusetts Democrats say they are for Mr. Farley, but if Mr. Roosevelt runs they would be for him. However, I do not think we can endure this leadership any longer. She said to him: "You are getting to be unbearable. It will soon be impossible to live with you." He hopefully looked at her and said, "How soon?" That is the way I feel about it. A change cannot come too soon.

Now, I rejoice here today that the Democrats who are here agree with me. And they are true Democrats. They are apparently not of the type of these New Dealers who do not care if they do plunge the country into national bankruptcy. New Dealers complain about economic royalists; but every day they beg them to furnish the capital to run the Nation. When banks or other people lend us money to carry on they can assume at some time some control of our business. The banks are now furnishing nearly all the money, and they may soon control this Government. Last year the country banks outside of New York City did not increase their portfolios a dollar in United States bonds. The New York City banks accounted for the full increase.

Mr. RABAUT. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Michigan.

Mr. RABAUT. The gentleman would not say that the bank control is evidenced in the interest rate, would he?

Mr. GIFFORD. No; but in the end they may have power to control. At the present time we have issued so many notes or bonds and have so much so-called debt money that no one knows what to do with it. I want to make this clear, I have tried before. You give a note for a thousand dollars payable in 20 to 40 years. That is grand for the Government. You have created $1,000 in money that can circulate until the note or bond is paid. Every bond you issue, every bond that is

taken by the banks, creates an equal amount of money, and we have now so much money that the danger of inflation is known to all. There is nothing else to do with this money but to buy more debt and create still more money. As I tried to say the other day, the insurance companies are being urged to buy more Government bonds because they pay cash and no new money created. There is much more I would enjoy mentioning, but you on the Democratic side have agreed with me so perfectly that I will yield the floor. I have enjoyed these few minutes at a time when others were not desirous of taking it.

[Here the gavel fell.]

Mr. STEFAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. EDWIN A. HALL].

Mr. EDWIN A. HALL. Mr. Chairman, I regret that I am not able to talk about District of Columbia affairs even though it is the subject of the afternoon. However, I am very well versed in a problem which is particularly sectional in nature at the present time. I refer to the very serious hay shortage in my district, about which I spoke last week. I desire to emphasize that the problem which my farmers are facing is rapidly becoming a serious one.

At this time I wish to say that the farmers of my district are absolutely without hay and it is 2 months from now until pasture time when their herds may be able to get fresh fodder. I have gone into this problem very thoroughly with the Department of Agriculture and I point out that the measure which I recently introduced, H. R. 8312, better known as the Hall farm bill, is now pending for consideration. It has been my good fortune to obtain a promise from the chairman of the Committee on Agriculture today that hearings will be held on this particular measure.

When it becomes my opportunity to be designated a date for that hearing, I am going to ask as a special favor not particularly to me but to the farmers of my district that as many Members from agricultural areas attend that hearing as can possibly find time to do so.

My bill, in short, provides for a policy to be created by the Secretary of Agriculture that when a particular section has been endangered or has been stricken by an act of nature such as droughts, floods, fire, and so forth, he may be authorized to take steps in that locality as regards the regulation of the price of hay. I may mention at this time that hay in my district has soared to the fabulous price of from $18 to $22 per ton, and that unscrupulous dealers have taken the opportunity afforded by this unfortunate situation to bring hay and fodder from outside and take advantage of the farmers to bring in hay and fodder from outside and taking advantage of the farmers in my district by giving them short weight. Not only that, but hay has been brought in from other areas and sold to the farmers who could not possibly buy it at these prices.

I found that the Department of Agriculture was having trouble in making loans available for hay at $20 a ton. You will agree with me that no farmer who is facing economic bankruptcy today will be able to borrow money to purchase hay at that fabulous price when he is unable even to buy food for himself. Therefore, the presentation of this measure, while it may affect only my district today, may next year or the next year or the next year affect the districts which you represent. [Applause.]

[Here the gavel fell.]

Mr. STEFAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. HOFFMAN].

REPENTANCE SHOULD FOLLOW CONFESSION

Mr. HOFFMAN. Mr. Chairman, an editorial in this morning's issue of the Washington Post, a great newspaper, published in the Capital of the richest and most powerful nation in the world, contains unintentionally, no doubt, the most devastating indictment of the New Deal, of the President of the United States, and of the present Congress that has ever been made of a governmental agency since our Nation came into existence.

This editorial is captioned "Erosion of Character." Let me quote from the editorial—

> In his St. Louis address Thomas E. Dewey accused the administration of "a fundamental lack of integrity, a cynical disregard of the principles of common honesty." These are harsh charges.

But they have been made before. Listen to this statement made by the venerable Democratic Senator from Virginia [CARTER GLASS], who unwaveringly, unafraid, has served the great State of Virginia in the United States Senate for so long; who has eyes to see, a mind to analyze, and the courage to state the fact. Long before Mr. Dewey began his campaign the Senator said:

> The New Deal, taken all in all, is not only a mistake, it is a disgrace to the Nation, and the time is not far distant when we shall be ashamed of having wandered so far from the dictates of common sense and common honesty.

Here we have the young crusading racketbuster from the city of New York and the gray-haired patriotic sage of the Senate characterizing the present administration as lacking truthfulness and honesty, without which no nation can prosper and continue to exist.

This editorial then continues—

> But Mr. Dewey did not stop at generalizations. He went ahead to cite instance after instance of broken pledges, renewed promises, and fresh breaches of faith.
>
> Thus he noted the President's repudiation of the gold standard soon after his election upon a platform advocating a "sound currency," and his repeated promises to balance the Budget, ending with conversion to a spending theory which associates budget-balancing with disaster.
>
> Mr. Dewey also passed in review the administration's attempt to "undermine the Constitution"—notably the proposal to pack the Supreme Court, and subsequent unsuccessful efforts to effect a "political purge" of the lawmakers who had opposed the Court-packing plan.
>
> It is not an adequate answer to say that platform promises are made only to be broken. And there is a certain speciousness about the familiar argument that unforeseen emergencies justify lightninglike changes of policy. Mr. Dewey's target is obviously the President himself. And the latter's record is unquestionably vulnerable, because of the multiplicity of broken pledges that could have been kept without danger to the national welfare.

From the foregoing quotation you will note that the editorial does not question the soundness of Dewey's indictment, its truthfulness, nor does it charge that Dewey's recital of the facts did not carry conviction of that charge. The editorial rather seeks by confession an avoidance to excuse the lack of truthfulness and the lack of common honesty shown by the President's administration of his office up to this time. This attempted palliation of the lack of moral fiber in the present administration is given in these words—again I quote from the Post:

> Despite the vigor of the St. Louis speech it is questionable whether a recital of this sort will arouse any great amount of indignation. The fact is that the "erosion of character" of which Mr. Dewey complains in the National Government is paralleled in private life. Indeed, it is probable that the vacillation which characterizes our governmental policies is a reflection of the groping of bewildered individuals for a solution of the numerous social and economic problems that now affect their daily lives.

Here is an indictment not of the administration but of the American people as a whole and of this Congress in particular. Note again this sentence, from the editorial:

> Despite the vigor of the St. Louis speech it is questionable whether a recital of this sort will arouse any great amount of indignation.

What is the implication from that statement? It is this: That notwithstanding candidate Roosevelt's statement that—

> We believe that a party platform is a covenant with the people to be faithfully kept by the party when entrusted with power, and that the people are entitled to know in plain words the terms of a contract to which they are asked to subscribe.

he has seen fit, because of political expediency, to so often violate his solemn promises to the American people that they have become accustomed to the thought that truthfulness is no longer expected from the Chief Executive of the Nation.

What a long, long way we have traveled from the days of George Washington when truth was held to be a cardinal

virtue and the lowliest citizen of the Republic who failed to keep his promise was without credit or respect in his community.

If the thought expressed in this editorial be true, and there is some truth in it, the lessons to children at the mother's knee must be redoubled and emphasized. The old, old saying that honesty is the best policy must again, day after day, be brought home to our citizens so that undone may be the harm and the false doctrine which has been implanted in the minds of the people by our Chief Executive and those who surround him.

Mr. Dewey charged that there had been an "erosion of character" of this administration, if one may speak of an administration as having character. The Washington Post charges that the "erosion of character" of which Mr. Dewey complains in the National Government is paralleled in private life.

The Post charges that the "vacillation which characterizes our governmental policies is a reflection of the groping of bewildered individuals for a solution of the numerous social and economic problems that now affect their daily lives."

Rather the truth is that the people have come to have less regard for truth and honesty because of the lack of those qualities in the present administration. It is not the lack of truth and honesty in the common people which has seduced and corrupted this administration; it is the lack of those qualities in the administration which has undermined, and to a certain extent, dulled those virtues in the minds of the people.

The man who leads the way in times of great national stress, a Washington, a Lincoln, not only reflects the thought of the people, but serves ever as a real leader of the people by his acts, his conduct, and faithfulness to his public utterances, setting an example which all might follow with safety.

If there is among the people of this Nation lack of respect for truth, for honesty, it is because of the example which the Chief Executive has given them during the past 7 years.

The problems which confront this Nation today are no different in principle than those which have always confronted us as a Nation. No man worthy of leading us can excuse the failure to be truthful and honest by the whimpering cry of expediency. The responsibility for our present condition, for the carelessness with which we as a people regard the breaking of promises, the waste, extravagance, the borrowings which enable us to shift our burdens to the shoulders of future generations, rests not alone upon the shoulders of the President and his advisors but squarely upon us, the Members of Congress, who day after day fail to keep our promises to safeguard our Nation from national bankruptcy; from the destruction by governmental agencies of the liberty which our forefathers so dearly won.

Have we forgotten the old proverb—

As a dog returneth to his vomit, so a fool returneth to his folly.

How much longer will we violate our promises, and as a Nation continue to borrow and spend, submit to bureaucrats, Government underlings, stealing from our people the right to free speech, a free press, due process of law, a fair trial in our courts?

Read again and ponder well this editorial from the Washington Post and then, standing convicted as we do of undermining at least some of the necessary foundations of our Government—that is, creating a disregard for truth and honesty—let us repent and before the session ends, give a demonstration by our acts, that our repentance is not a sham and a deception. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired; all time has expired.

The Clerk will read.

The Clerk read as follows:

For general supplies, repairs, new batteries and battery supplies, telephone rental and purchase, telephone service charges, wire and cable for extension of telegraph and telephone service, repairs of lines and instruments, purchase of poles, tools, insulators, brackets, pins, hardware, cross arms, ice, record book, stationery, extra labor, new boxes, maintenance of motortrucks, and other necessary items, $34,700.

Mr. COCHRAN. Mr. Chairman, I move to strike out the last word to ask a question of the chairman of the subcommittee.

I notice in the bill that money is available for the construction of a new armory, based upon an authorization carried in the appropriation bill of last year. I want to know whether or not this entire amount is coming out of District funds or whether any of it comes out of the Treasury of the United States.

Mr. CALDWELL. It all comes out of the District with the exception of that portion which is allocable to the Federal Government under the Federal contribution of $6,000,000.

Mr. COCHRAN. I thank the distinguished gentleman from Florida. I have a large number of protests against the appropriation of money by the Congress out of the Treasury of the United States for the construction of a convention hall or an auditorium, in the District of Columbia. The taxpayers back home feel that their money or Government money should not be used for such a purpose, and if the people of the District of Columbia desire to construct an auditorium or a convention hall, or whatever you might call it, for convention purposes, and so forth, they should pay for it themselves.

I notice in the report you have several legislative provisions wherein you authorize the Commissioners to enter into contract or contracts for additions to schools, and so forth. Is there any such provision in this bill that would take care of an auditorium, convention hall, or arena?

Mr. CALDWELL. There is a provision in this bill for the continuation of the construction of an armory.

Mr. COCHRAN. I am talking about an auditorium, convention hall, or arena.

Mr. CALDWELL. No; there is not. The armory is the only thing to which you might refer and the only contribution the taxpayers of your State may make is, perhaps, the contribution toward one-eighth of the total cost of the armory.

Mr. COCHRAN. That money for the armory comes out of the general funds of the District of Columbia and can be properly spent for that purpose, but what I want to make sure of is that there is no money coming out of the United States Treasury alone for the purpose of constructing an auditorium, convention hall, or an arena out of Federal funds alone.

Mr. CALDWELL. The gentleman may be assured that such is the fact.

Mr. COCHRAN. Washington is called the ideal convention city. We have often read in the local press that political national conventions, outstanding athletic events such as the Army-Navy football game, and so forth, could be brought here if proper facilities were available. That is the business of the people of Washington but it is properly the business of my constituents and taxpayers to protest the use of their money to make provisions to care for such events, thus taking that business from them.

My home city, St. Louis, is a great convention city. The finest of hotel accommodations and proper buildings to hold conventions are available. The city is in the center of the country. The money to provide proper facilities for conventions came out of the pockets of the people of St. Louis and therefore I submit it would be unfair to use their money to construct suitable buildings and fields in Washington which in the end would certainly at least compete with my city. I hope the committee will always bear this in mind and if ever an attempt is made to authorize such places provisions will be made that the money to do the work come out of the revenue of the District of Columbia and not out of the Treasury.

The clerk read as follows:

For contingent and other necessary expenses, including equipment and purchase of all necessary articles and supplies for classes in industrial, commercial, and trade instruction, $4,000.

Mr. RABAUT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, everybody who seems to have anything to say, any place in the Nation, nowadays, refers to it as America's No. 1 problem, but if this Congress wants to take cognizance of the real No. 1 problem of this country they have it right here in the District of Columbia, and in the hearings at page 179.

In these hearings you will find that in the elementary-school system of the District, among the white children in 1930, there was an enrollment of 33,631 children, and in 1939 there was an enrollment of 29,951 children; at the same time there was an increase in the population of the District of Columbia from 468,000 to the estimated present population of 685,000.

Enrollment in elementary schools—membership reports of Nov. 1, 1930, 1933, 1934, 1935, Oct. 30, 1936, Oct. 29, 1937, Oct. 28, 1938, and Oct. 27, 1939

School	1930	1933	1934	1935	1936	1937	1938	1939
Divisions 1–9 (white):								
Kindergarten, grade 8	32,779	31,592	32,781	32,468	31,564	30,592	29,638	28,588
Ungraded	852	1,064	1,117	1,053	1,076	1,157	1,136	1,363
Total, divisions 1–9	33,631	32,656	33,898	33,521	32,640	31,749	30,774	29,951
Divisions 10–13 (colored):								
Kindergarten, grade 8	18,901	19,780	20,808	21,414	21,634	21,521	22,109	21,787
Ungraded	327	648	678	606	592	705	371	908
Total, divisions 10–13	19,228	20,428	21,486	22,020	22,226	22,226	22,480	22,695
Total elementary:								
Graded	51,680	51,372	53,589	53,882	53,198	52,113	51,747	50,375
Ungraded	1,179	1,712	1,795	1,659	1,668	1,862	1,507	[1] 2,271
Total, divisions 1–13	52,859	53,084	55,384	55,541	54,866	53,975	53,254	52,646
Increase or decrease over preceding year	1,413	349	2,300	157	−675	−891	−721	−608

[1] Includes 495 pupils belonging to the Bundy School which makes a special feature of industrial arts but is not considered a special school for occupational classes.

There is your No. 1 problem, the fall-off in the child birth rate of America. It has declined from 25.1 in 1915 to 17.6 in 1938 per 1,000 population.

Statement indicating the birth rate (number of live births per 1,000 population) for the United States, 1915–37

Year:	
1915	25.1
1916	25.0
1917	24.7
1918	24.6
1919	22.3
1920	23.7
1921	24.2
1922	22.3
1923	22.2
1924	22.4
1925	21.5
1926	20.7
1927	20.6
1928	19.8
1929	18.9
1930	18.9
1931	18.0
1932	17.4
1933	16.5
1934	17.1
1935	16.9
1936	16.7
1937	17.0
1938 [1]	17.6

[1] 1938 figures are provisional.

This reduction is Nation-wide, and as Frank C. Waldrop rightfully said in his column in the Washington Times-Herald yesterday, you will not be troubled very much longer with building elementary schools in this Nation except to replace those that become obsolete. You will not need as many doctors interested in children as are required today, less teachers, less nursemaids, less clothing, less agricultural products, and all down the line. It is your No. 1 problem, and do not have any doubt about it. The absent child of today is the missing but necessary adult of tomorrow.

Mr. O'NEAL. Mr. Chairman, will the gentleman yield?

Mr. RABAUT. I yield to the gentleman.

Mr. O'NEAL. Consistency is such a rare jewel in these days and times, and so few people speak who are qualified as experts, I would like to add at this point that the gentleman who is speaking on this subject, certainly is qualified, having nine children of his own. [Applause.]

Mr. RABAUT. I thank the gentleman, and I am proud of it.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. RABAUT. I am very pleased to yield to the gentleman from Nebraska.

Mr. STEFAN. I think we should clarify the gentleman's statement a little bit as to the increase or decrease of pupils in the elementary schools in Washington. The testimony before our committee shows that the population of Washington is around 613,000, and the percentage of colored people in the District of Columbia is 27 percent, yet the elementary school population in the public schools is 43 percent.

Mr. RABAUT. Colored children.

Mr. STEFAN. The colored population in the city is 27 percent and the colored population in the elementary schools is 43 percent.

Mr. RABAUT. I want to say further to the Committee that after the above and surprising facts had been given to your subcommittee we were approached concerning the nuisance of the dog population of Washington.

As long as I can remember the subject of the poet's pen and the artist's brush has been a boy and his dog. I imagine if we could go back far enough we would find that the original dogs were domesticated to be the companions and protectors of children. Today, with the marked reduction in child population, we hear a great complaint about the excess number of dogs in the city of Washington, and while I am the master of a devoted Irish setter, the faithful companion of my children, nevertheless, I want to know who are petting all these dogs?

The Clerk read as follows:

For the maintenance of schools for crippled pupils, $3,500.

Mr. NICHOLS. Mr. Chairman, I move to strike out the last word. I take this time in order to get into the RECORD the following letter from Mr. William E. Hayes, chairman, taxation committee, District of Columbia Bar Association, in reply to a recommendation carried in the report accompanying this bill, which I shall read:

The House Appropriations Committee, under date of Wednesday, March 27, 1940, reported the District of Columbia's 1941 appropriation bill to the House and in the report the Committee said, among other things:

"In recommending $14,040 for the Board of Tax Appeals, which is the amount of the current appropriation, the committee wishes to call attention to the fact that the Board is composed of a single member without any considerable training and experience in matters of property valuation, who is called upon to review and adjust assessments fixed by the Board of Assessors, which has the experience, background, and information to do a better job than anyone else.

"The Committee finds difficulty in reconciling a condition of this kind, and recommends that consideration be given to improvement of the situation by the appropriate authorities."

The purpose of the Board of Tax Appeals of the District of Columbia, as now constituted, is to afford taxpayers of the District of Columbia an independent review by an independent tribunal of every type of tax paid by the taxpayers of the District of Columbia, whether it be real estate, inheritance, estate, personal property, income, or others. The determination of the proper tax, regardless of the type of tax, naturally involves an independent review of the law, and the facts pertaining to the particular issue, including in many instances the valuation of property. The Board is quasi-judicial and determines the facts, including valuation, in certain cases, upon the evidence presented at the hearing. It is not contemplated that he should possess the qualifications of an assessor or an appraiser any more than a judge or a jury who is called upon to perform a similar type function in the ordinary lawsuit.

To leave valuation questions with the Board of Assessors, one of whom makes the assessment originally, is to deprive the taxpayers of the independent review to which they are now entitled and which can only be had by an independent tribunal, such as the present Board of Tax Appeals of the District of Columbia.

In response to a suggestion some time ago that the Board of Tax Appeals be abolished, 23 civic organizations, including the Bar Association of the District of Columbia, the Association of Certified Public Accountants, and the Board of Trade, and similar organizations, appeared and strongly protested the abolition of the Board of Tax Appeals.

It is felt that the statement herein referred to is a misconception of the purposes of the Board and its functions, and equally so to have the review of valuation questions of real estate revert to the

Board of Assessors of the District would be a grave injustice to the taxpayers of the District and deprive them of the right they unanimously asserted they desired when they appeared and demanded an independent Board of Tax Appeals for the District of Columbia.

WM. E. HAYES,
Chairman Taxation Committee, District of Columbia Bar Association.

Mr. Chairman, I point out to Members at this time that the Board of Tax Appeals was created about 2 years ago by the Committee on the District of Columbia. That was done at the instance of repeated requests and demands by the taxpayers of the District that such a Board be set up, because under the old law we had this situation. A man went out and assessed your property, and he fixed the valuation on the property and levied the assessment. Then you appealed from that, and then found that man with other men out of the assessor's office sitting as the board of appeals. It is the opinion of the District of Columbia Committee that there should be some appeal to an independent authority rather than an appeal to the man who fixed the valuation and who had levied the assessment.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

The Clerk read as follows:

For purchase and repair of furniture, tools, machinery, material, and books, and apparatus to be used in connection with instruction in manual and vocational training, and incidental expenses connected therewith, including all necessary expenses in connection with the operation, maintenance, and repair of automobiles used in driver-training courses, $70,400, to be immediately available.

Mr. CALDWELL. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment offered by Mr. CALDWELL: Page 26, line 12, strike out the words "including all" and insert "and for insurance and all other"; and in line 14, after the words "repair of", insert "District-owned or loaned."

Mr. CALDWELL. That is a clarifying amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

For textbooks and other educational books and supplies as authorized by the act of January 31, 1930 (46 Stat. 62), including not to exceed $7,000 for personal services, $190,000, to be immediately available.

Mr. BOREN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BOREN: Page 27, line 21, strike out all of lines 21 to 24, inclusive.

Mr. BOREN rose.

Mr. CALDWELL. Mr. Chairman, I ask unanimous consent that all debate upon this amendment and all amendments thereto close in 6 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOREN. Mr. Chairman, I do not wish to make a speech on this subject. The Federal Government does not provide free textbooks for any other students in any other part of the Nation, and I do not believe the Federal Government should provide free textbooks for students in the District of Columbia. At the present time they are providing free textbooks even in the high schools of the District of Columbia.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BOREN. Yes.

Mr. MAHON. The gentleman realizes that the District pays over $40,000,000 in taxes, and that this money comes from the taxpayers of the District of Columbia and is not provided for out of the Treasury of the United States.

Mr. BOREN. Just the same, the Federal Government contributes $6,000,000 to the District and pays a portion of this free-textbook cost.

Mr. MAHON. The chairman of the subcommittee advises me that it is required by law to make this appropriation.

Mr. BOREN. I recognize that this item is required by law, but the funds come out of public funds, nevertheless, appropriated by Congress, and I do not feel it is justified.

Mr. KENNEDY of Maryland. There is a total of $48,000,000, and only $6,000,000 is contributed by the Federal Government.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. BOREN].

The question was taken; and on a division (demanded by Mr. BOREN) there were ayes 1 and noes 18.

So the amendment was rejected.

Mr. BOREN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. BOREN. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

No part of the appropriations herein made for the public schools of the District of Columbia shall be used for the free instruction of pupils who dwell outside the District of Columbia: *Provided*, That this limitation shall not apply to pupils who are enrolled in the schools of the District of Columbia on the date of the approval of this act.

Mr. SASSCER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SASSCER: On page 31 strike out all of lines 15 to 20, inclusive.

Mr. CALDWELL. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. SASSCER. Mr. Chairman, the purpose of this amendment is to strike lines 15 to 20, inclusive, on page 31, from the act. The purpose of those lines is to repeal existing law which permits children whose parents work either in the Government service or in private employment in the District of Columbia, but who live without the District, to be admitted free into the District of Columbia schools. Although, to some extent, this is legislation on an appropriation measure, I did not make a point of order against it, possibly because it is by way of limitation, a point of order might not be well taken.

Briefly, I understand there are some 2,500 children who come into the District schools; that the cost of education of those children is something over $250,000. It may be asked why should those children come in free. I might briefly say that the parents of those children live on the border of the District of Columbia and, speaking for Maryland, I can say that as far as reciprocity is concerned, children of the District of Columbia go free to the Maryland schools. In my own county, just on the border of the District of Columbia, I am informed there are some hundred children who reside in the District of Columbia, in the outlying sections, who attend Maryland schools free. I am sure the same situation is true in Montgomery County, where a great many District of Columbia children go free to the Montgomery County schools.

In addition to that, our great university at College Park, built up now to the point where it stands foremost among those of the Nation, is supported by the taxpayers of Maryland. We permit students from the District of Columbia to attend that university at practically the same cost to Maryland students, and less than the charge made to the students from other States.

I have been in touch with our Maryland government for some years. One of the reasons why that reciprocity was extended was because the children in Maryland, whose parents work in the District of Columbia, go free to the District of Columbia schools. There are seven or eight hundred District of Columbia students who go to College Park at $75 per year less than students from other States, making a total in that one item alone of over $50,000. I feel sure that in addition to the spirit of reciprocity and cooperation prevailing in greater Washington, if we check this down the

line and take into consideration the children from the District of Columbia who attend Maryland schools free, and take into consideration the great number who attend the University of Maryland, there cannot be any question about the fairness and justice of this amendment. The parents of these children are not Marylanders necessarily. In that suburban section many citizens of different States reside and retain their residence at home. They work in the Government in the District of Columbia and some bring their children into the District of Columbia. The fact that the Federal Government does appropriate a substantial sum for the District of Columbia should be taken into consideration, also. If you would go out to the District line and see how the Maryland people on their way home are trading at the District stores, you can realize how much Maryland money is spent here. Practically all of their money for clothing, and so forth, is spent in the department stores in the District of Columbia. So you can see it is not only eminently fair because of the money we spend here but Maryland has met its reciprocity by accepting District children into its university and into its own public schools.

I therefore respectfully ask that this reciprocity be not destroyed, and this act repealed by this appropriation bill.

[Here the gavel fell.]

Mr. CALDWELL. Mr. Chairman, on the question of reciprocity I am not sure what the situation is in Maryland, but in the hearings Dr. Ballou was asked about this problem.

As will be found on page 191 of the hearings, he said:

I got a letter just the other day, following a newspaper discussion of this matter, calling attention to the fact that a resident of the District was sending a child to a school in one of the counties of Virginia, and that resident of the District has to pay tuition in that county in Virginia.

District students are not given the same privileges at the University of Maryland that Maryland students are given. Twenty-eight hundred students from Virginia and Maryland are now going to school in the District. It is unfair to burden the people of the District with this additional $265,000. The people who are sending their children to the District are in the upper financial brackets and there is no reason why they could not pay a modest or reasonable sum for that privilege. I think they should.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield.

Mr. DONDERO. Do the political subdivisions that are adjacent to the District of Columbia have any law whereby they might repay the District the amount of the tuition that might be charged for these children attending District schools?

Mr. CALDWELL. I am not certain as to that.

Mr. DONDERO. We have such a law in my State of Michigan. I am quite familiar with it.

Mr. VORYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield.

Mr. VORYS of Ohio. Is provision made whereby parents, if they want to send their children to the District schools, may do so upon payment of tuition and mileage?

Mr. CALDWELL. Oh, yes. The school department is authorized, under the language of this limitation, to accept such students upon payment of reasonable tuition—whatever may be fixed. I may say further that this does not apply to children now enrolled but to future enrollees.

Mr. KENNEDY of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield.

Mr. KENNEDY of Maryland. Is there any provision whereby Members of Congress have to pay for the education of their children in the District?

Mr. CALDWELL. I am not sure about that.

Mr. KENNEDY of Maryland. Is it not true that their children are educated without any charge at all?

Mr. CALDWELL. I believe that is true.

Mr. KENNEDY of Maryland. Why should not they pay?

Mr. CALDWELL. Their children should be treated the same as the children of any other residents of the District; they are educated in the District schools whether the parents reside here temporarily or permanently.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield.

Mr. STEFAN. In the past the House has passed this item and it has been fought on the other side of the Capitol Considerable opposition has always come from Representatives from neighboring States. I do not feel that the taxpayers in my State of Nebraska, who are ready to pay a portion of the Government's $6,000,000 contribution to the general expenses of running the District, should be taxed for the tuition of pupils from Maryland and Virginia who participate in these benefits here.

The schools of the District of Columbia are perhaps the finest schools in the United States; they are model schools. People come from all over the country endeavoring to send their children to the District schools. I do not blame the people in Maryland and Virginia for endeavoring to secure this fine free tuition, but I do not want my taxpayers in Nebraska to contribute to the education of the children of Maryland and Virginia, who must pay tuition should they send their children to other States.

Dr. Ballou, Superintendent of Schools in the District of Columbia, states that there is absolutely no reciprocity so far as tuition is concerned between Maryland and Virginia. I do not blame my colleagues from Virginia and Maryland for trying to retain this advantage for their people. They are always fighting against the dropping of this privilege, which costs from $250,000 to $265,000, which should be their own responsibility.

Mr. SASSCER. Mr. Chairman, will the gentleman yield?

Mr. CALDWELL. I yield.

Mr. SASSCER. So far as reciprocity is concerned in the case of Maryland University, does the gentleman realize that there is no land-grant school in the District of Columbia, and that for their vocational training District students go to the University of Maryland absolutely free and the others go there on a reduced basis?

Mr. CALDWELL. All I know is what the superintendent of schools told us at the hearings.

[Here the gavel fell.]

The CHAIRMAN. The time of the gentleman from Florida has expired; all time has expired.

The question is on the amendment offered by the gentleman from Maryland.

The question was taken; and on a division (demanded by Mr. SASSCER) there were—ayes 8, noes 29.

So the motion to the amendment was rejected.

The Clerk read as follows:

For the pay and allowances of officers and members of the Metropolitan Police force, in accordance with the act entitled "An act to fix the salaries of the Metropolitan Police force, the United States Park Police force, and the Fire Department of the District of Columbia" (43 Stat. 174–175), as amended by the act of July 1, 1930 (46 Stat. 839–841), including one captain, who shall be property clerk, and the present acting sergeant in charge of police automobiles, who shall have the rank and pay of a sergeant, $2,924,280.

Mr. SCHULTE. Mr. Chairman, I offer an amendment.

Amendment offered by Mr. SCHULTE: Page 35, line 20, strike out "$2,924,280" and insert in lieu thereof "$2,948,505"; and on page 68, line 7, strike out "$516,050" and insert in lieu thereof "$520,325."

Mr. CALDWELL. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SCHULTE. Mr. Chairman, I have introduced this amendment for the purpose of increasing the Police Department of the District of Columbia by 25 men. Of course it means an increase in the Budget of $42,500. The men are started off at a salary of $1,900 a year, which is the salary paid to rookies. Now, let me state the reason for this amendment.

We have been reading in the newspapers constantly of hold-ups, burglaries, the snatching of purses, and other petty

crimes. I do not mind saying to you that Washington is fast becoming known as the petty-crime center of the universe. Do you know that just this morning on the Capitol Grounds there was a hold-up? On the Capitol Ground of the Nation! Certainly this is becoming serious when they are so brazen as to attempt a hold-up on the Capitol Grounds. When the matter of robberies is called to the attention of the major of police he continues to say that he is short of police, he has not enough men.

Let me say to the Members of the House that the major has some justification for saying that very thing, and I believe we all agree that he does not have enough men, so certainly he is right in advancing that sort of an argument because of the fact that they are constantly draining his department. Men are taken to the White House to accompany the President to the train and to receive the President when he comes back and they perform other functions such as guarding the embassies, the legations, and a great many other duties they do not have to perform in other cities, but must do here in the District of Columbia. Last year there were 4,000 man-hours used in that type and kind of service.

I appreciate the fact that the Police Department in the District here is entitled to be streamlined and that there are some ills and faults with the Police Department that should be corrected. For instance, 14 men from the Police Department, drawing a salary of $2,400 a year each, are assigned as hack inspectors. They are the fellows who go out and ask the hack driver if he has a license. They see if he has four wheels on his taxicab and perform services of that kind. Those are not the duties of a policeman, and this service, I maintain, should be placed in the Traffic Department under the supervision of Mr. Van Duzer, and certainly a big saving could be effected right here in this department. Instead of paying policemen $2,400 a year, others could do it for $1,800 a year, so that would give us about 14 more men to do police work. Those are some of the things we have to contend with—and again here is another incident. There are 10 or 12 men from the Police Department assigned to the A. B. C. Board. Those men are charged against the Police Department. They go around to see that the taverns have licenses, they see that there are no violations going on in these taverns, and again I say that does not belong to the Police Department. This work again should be done by men hired by the A. B. C. Board, and should they have any trouble they could call on the man on the beat. The man on the beat should be able to take care of that situation.

If we could get the Commissioners to cooperate with the people of the District of Columbia and cooperate with the various heads of departments, we would not have any argument in the District of Columbia for the vote and suffrage. But we do not have that now. I hope when the President makes his next appointment to the District Commission that he will select someone who has no connection whatsoever with the District Building or any of its affiliates, someone who really has the District of Columbia and its people at heart. I am frank to say, if he does appoint a man of that type, we can correct this situation very quickly, and I am serious when I make that statement. I have been a member of the Committee on the District of Columbia for the past 8 years, and I feel that I have gained quite a bit of experience by being a member of that committee and that I can speak authoritatively.

Mr. Chairman, in going over the Police Department and its various subdivisions I can readily understand why the major should have an additional 25 men. He has been working the men from 8 o'clock in the morning until 12 at night. He has to do that because of the fact that the crime wave is here. At least that is what the newspapers have called it, and certainly it has been very serious in the last 2 weeks. It subsides one night, then breaks out again the next night. Your constituents and mine have probably had the same experience that I had the misfortune to go through. I do not want to face these guns. It is not a pleasant thing to look into the business end of a gun and be told to surrender your money. I am frank to state that around 1,400 or 1,425 police are not sufficient in a city of 629,000 people, when they are assigned to other bureaus, while still being charged to the Police Department. I hope that at some time or other with District Commissioners whose sole interests are in the District of Columbia and its welfare this thing may be ironed out to the satisfaction of everyone concerned, and I want to suggest to the Commissioners now to have the police who are assigned to the hack inspectors and the A. B. C. Board that they be returned back to the Police Department for which they were hired, and then hire men who are paid but $1,800 a year to do this clerical work that is to be done in these agencies.

Mr. Chairman, I hope my amendment will be agreed to, which will provide $42,500 for an additional 25 policemen to be used for the prevention of crime and hold-ups in the District of Columbia.

[Here the gavel fell.]

Mr. O'NEAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, unfortunately, the number of police does not always mean efficiency with reference to a police department. There are 133 Capitol police up here on the Hill; and if there was a hold-up on Capitol Hill this morning, it was not due to a lack of police. Certainly if the same proportion of police were employed all over the city of Washington, it would be quite impossible to pay all of them. That is not where the difficulty lies. The remedy is in having the Police Department do the job as it should be done on the Hill and in Washington.

Taking 12 comparable cities in the United States, Washington has more policemen in proportion to population than 9 of those cities. There are only 3 of them that have more.

Your committee has gone into this very carefully. The amount in the amendment would exceed the Budget estimate. Also, Washington, in addition to having more policemen than most cities of the United States in proportion to population, has for its protection 72 Park Police, 133 Capitol Police, and 60 members of the Secret Service. Every building in Washington has its custodial guard and, as you know, hundreds and hundreds of men are used in that capacity, and they are, in a certain sense, policemen. The committee allowed the Budget estimate. As I stated, our committee has gone into this very carefully, and as far as numbers are concerned Washington is better off than most cities. We see no reason to increase it, and we hope you will support the action of the committee.

Mr. RANDOLPH. Will the gentleman yield?

Mr. O'NEAL. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. I know the gentleman and the members of the Subcommittee on District Appropriations have considered this item carefully, as they have all other items. I am wondering if they realized in estimating the population of the District of Columbia that there are hundreds of thousands of persons who are here every day who are not counted in the regular population?

Mr. O'NEAL. Yes. I think the purpose of the guards and the custodians in the Government buildings, which these people frequent, is one reason we have so many guards, and they are there for the protection of the visiting public.

Mr. SCHULTE. Will the gentleman yield?

Mr. O'NEAL. I yield to the gentleman from Indiana.

Mr. SCHULTE. I appreciate the fact we have 100 or more police around the Capitol, and that there are hundreds employed in the various Government buildings, but may I say to the gentleman that those guards are not allowed out of the buildings. They do not patrol the streets, the highways, or the byways, and that is where most of our petty crime is being committed today. One of the Members said to me, "Frankly, I am afraid to go out on the streets at night, and I am even afraid to drive my car."

Mr. O'NEAL. We have given the Police Department an increase every year, practically. It was increased by 25 last year. There are 1,400 police in Washington, which is 2.2 to every 1,000 of population.

Mr. CALDWELL. Will the gentleman yield?

Mr. O'NEAL. I yield to the gentleman from Florida.

Mr. CALDWELL. May I remind the gentleman that in the hearings, it developed that 14 members of the uniformed force are now being used throughout the city to inspect various buildings, and determine whether or not occupational licenses should be paid.

Mr. O'NEAL. That is true.

Mr. CALDWELL. They have taken 14 members of the police force out of circulation, and put them on another job.

Mr. SCHULTE. I grant that.

Mr. O'NEAL. The problem is to use what they have to better advantage. The committee went into this very carefully. I trust the amendment will not be adopted.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. O'NEAL. I yield to the gentleman from Texas.

Mr. RAYBURN. Of course, I am going to support the committee, as I am expected to do, but I do want to say that the kind and, I may say, the adequacy of the police force on Capitol Hill has been, at times, a source of no little distress to me. I am pleased that these boys have these jobs, as I know that nearly all of them go to school. However, we all know that when war comes in any country in the world a great many people lose their reason. I have thought for a long time that especially in times like these, in view of the importance of this building and its occupants, the Capitol Police ought to be supplemented in some fashion by men selected in the same way, and required to have the same physical and mental qualifications as the police in the average metropolitan center. I should like to know what the gentleman thinks of this idea.

Mr. O'NEAL. The gentleman is referring to the Capitol Police?

Mr. RAYBURN. I am.

Mr. O'NEAL. The gentleman is asking my personal opinion?

Mr. RAYBURN. Yes. I know the gentleman has gone into matters like this, and I have not.

Mr. O'NEAL. With 133 police on Capitol Hill, as Members of Congress we certainly should give more attention to their selection, training, and discipline; because my observation has been that it is anything but a trained, soldierly, efficient outfit.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. SCHULTE) there were—ayes 6, noes 31.

So the amendment was rejected.

The Clerk read as follows:

For personal services, $148,145, including not to exceed $1,265 for the salary of one part-time physician to be paid at the rate of $3,800 per annum.

Mr. PLUMLEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have been impressed and oppressed by the fact that notwithstanding we like to believe that we are 435 representatives of the intelligence, the virtue, and the wisdom of the country, we neglect to do some things with respect to our membership and with regard to our friends on this floor which in any other body of this size would be deprecated by any of us. We come here in the morning and see that the flag is at half-staff, a signal that one has gone whom we have "loved long since and lost a while." Someone has died.

We go along about our business here and pass a resolution at the end of the day's work, and then adjourn out of respect to that Member, for whom we have respect and regard but for whom we show neither respect nor regard, by our insistence upon attending to trivial or important material matters and things incident to the day's work, utterly and hypocritically disregarding him, his death, and our loss. This should give us pause.

There is something more than the conideration of dollars and cents in living this life, else Socrates was right when he said: "The happiest man is he who is born dead."

I rise at this moment, sentimentally, you may say—but if life is worth living, it is because of the sentiment that is found in it—to suggest to you that today in charge of this bill is one of the most able, efficient, and conscientious men who ever sat on this floor since I have known anything about it [applause], and my history goes back to the days when I was secretary to my father in 1909. I am speaking about a man who has had the courage to stand and to bear a terrific personal burden, but who has never imposed it upon any of us; a man who comes in here today after having announced publicly that he would never again seek to be a candidate for the office of Congressman but who privately, and I do not know but that he may have done so publicly, has stated that in taking the position as chairman, as he has, of this subcommittee he would undertake to leave to his successor a slate as clean as he could wipe it. I refer to the gentleman from Florida [Mr. CALDWELL]. By his determination not again to be a candidate for Congress we have sustained a loss immeasurable.

[Here the gavel fell.]

The Clerk read as follows:

For completely furnishing and equipping the Southwest health center, $20,000, to be immediately available.

Mr. RANDOLPH. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise at this time to inquire of the chairman of the subcommittee about an item in connection with the Southwest health center. I do not speak now in any critical vein, but I believe that perhaps a little fuller explanation might be given than that which is carried in the report. I notice you have eliminated the proposal of the Budget for $13,000, which was recommended to be used for the purchase of a site for the health center in Southwest Washington. I quote from the report, as follows:

The committee recommend $20,000 for furnishing and equipping the new Southwest health center instead of $21,000 as proposed by the Budget, and has eliminated the Budget proposal for $13,000 to be used to purchase a site for a health center in Southwest Washington. The committee are of the opinion that this proposal should be deferred until the school-replacement program is undertaken, at which time one or more sites ideally located for this purpose will be available without additional cost to the District.

May I ask the gentleman when he believes the school-replacement program will make available a site which can be used for this purpose?

Mr. CALDWELL. As the gentleman knows, we are not able to make any definite prediction, but it was the feeling of the committee, and of all those with whom we talked, that within the next 1, 2, or 3 years there would be a sufficient consolidation and replacement of the old schools to provide a site that would be entirely suitable for this purpose.

Mr. RANDOLPH. I wish to see these health centers established as quickly as possible where they are needed in Washington. With this explanation of the chairman, I feel that I have no opposition to the deletion of this item.

The Clerk read as follows:

For the maintenance, under the jurisdiction of the Board of Public Welfare (of a suitable place in a building entirely separate and apart from the house of detention for the reception and detention of children under 18 years of age arrested by the police on charge of offense against any laws in force in the District of Columbia, or committed to the guardianship of the Board, or held as witness, or held temporarily, or pending hearing, or otherwise, including transportation, food, clothing, medicine, and medicinal supplies, rental, repair and upkeep of buildings, fuel, gas, electricity, ice, supplies, and equipment, and other necessary expenses, including not to exceed $20,920 for personal services, $39,000.

Mr. CALDWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CALDWELL: On page 47, line 11, strike out the parenthesis and insert a comma.

The committee amendment was agreed to.

The Clerk read as follows:

For current work of repairs to streets, avenues, roads, and alleys, including the reconditioning of existing gravel streets and roads; for cleaning snow and ice from streets, sidewalks, cross walks, and gutters in the discretion of the Commissioners; and including the purchase, exchange, maintenance, and operation of non-passenger-carrying motor vehicles used in this work, $922,500, of which amount $97,500 shall be available exclusively for snow-removal

purposes, $18,000 thereof to be immediately available for reimbursement to the appropriation from which expenditures for such purposes have heretofore been made, and not to exceed $37,500 thereof to be available for the procurement of snow-removal equipment: *Provided*, That appropriations contained in this act for highways, sewers, city refuse, and the Water Department shall be available for snow removal when specifically and in writing ordered by the Commissioners: *Provided further*, That the Commissioners of the District of Columbia, should they deem such action to be to the advantage of the District of Columbia, are hereby authorized to purchase a municipal asphalt plant at a cost not to exceed $30,000: *Provided further*, That not exceeding $15,000 of the foregoing appropriation shall be available for the preparation of plans, working drawings, and specifications for the construction of an underpass in the line of Sixteenth Street NW., at Scott Circle, including necessary changes in surface and underground structures within public property areas now occupied by roadways, sidewalks, walkways, parking and park reservations: *Provided further*, That upon the completion and approval of such plans by the Commissioners of the District of Columbia, the said Commissioners are authorized to submit the project as a Federal-aid highway project to the Public Roads Administration under the provisions of the Federal Aid Highway Act of June 8, 1938 (52 Stat. 633), and upon approval of such project by the Public Roads Administration the Commissioners are authorized to construct such underpass and perform such necessary incidental work and pay the cost thereof from the appropriation contained in this act for Federal-aid highway projects and the District's allocation of funds by the Public Roads Administration authorized by the said Federal Aid Highway Act: *Provided further*, That the necessary transfer of jurisdiction of public land and the relocation of monuments is authorized and directed under the provisions of the Land Transfer Act of May 20, 1932 (47 Stat. 161): *And provided further*, That the Commissioners are authorized to employ necessary engineering and other professional services, by contract or otherwise, without reference to section 3709 of the Revised Statutes (41 U. S. C. 5), the Classification Act of 1923, as amended, and civil-service requirements.

Mr. BOLLES. Mr. Chairman, I make a point of order against all of the paragraph beginning at line 23, page 72, the last three lines, and all of page 73, and lines 1 and 2, on page 74. I make the point of order that this is legislation on an appropriation bill.

Mr. CALDWELL. Mr. Chairman, the committee is disposed very promptly to concede that the point of order is well taken.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

SEC. 9. No part of this appropriation shall be available for any expense for or incident to the issuance of congressional tags except to those persons set out in the act of December 19, 1932 (47 Stat. 750), including the Speaker and the Vice President.

Mr. VAN ZANDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VAN ZANDT: On page 88, after line 5, insert a new section as follows:

"SEC. 10. No part of any appropriation contained in this act or authorized hereby to be expended shall be used to pay the compensation of any officer or employee of the Government of the United States or of the District of Columbia unless such person is a citizen of the United States or a person in the service of the United States or the District of Columbia on the date of the approval of this act who, being eligible for citizenship, had theretofore filed a declaration of intention to become a citizen or who owes allegiance to the United States."

Mr. CALDWELL. If the gentleman will yield to me, I may say that it is my information that there is no one employed by the District or under this appropriation who is not a citizen; but if the gentleman insists, I see no objection to the amendment.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

Mr. CALDWELL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RAYBURN] having resumed the chair, Mr. THOMASON, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H. R. 9102, the District of Columbia appropriation bill, 1941, had directed him to report the same back to the House with sundry amendments with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. CALDWELL. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The motion was agreed to.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment; if not, the Chair will put them en gross.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. CALDWELL. Mr. Speaker, I ask unanimous consent that all Members who spoke on the bill may have 5 legislative days within which to revise and extend their own remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ADJOURNMENT OVER

Mr. CALDWELL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next at 12 o'clock noon.

The SPEAKER pro tempore. Is there objection?

Mr. MICHENER. Mr. Speaker, I reserve the right to object to ascertain what the program will be for next week.

The SPEAKER pro tempore. Monday is Consent Day. The committee having in charge appropriations for the War Department say that they cannot be ready before Wednesday. It is my intention to ask unanimous consent on Monday that Calendar Wednesday be transferred to Tuesday. Wednesday and Thursday will be taken up by the War Department appropriation bill. If it should be completed by Thursday night, it is expected that the conference report upon the independent offices appropriation bill will come up Friday.

Is there objection to the request of the gentleman from Florida?

There was no objection.

EXTENSION OF REMARKS

Mr. STEFAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include certain excerpts from the Washington Star.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. STEFAN. Also, Mr. Speaker, on behalf of my colleague, the gentleman from Massachusetts [Mr. TREADWAY], I ask unanimous consent that in the extension of his remarks he be permitted to insert a resolution establishing a tax commission, and an excerpt from the Ways and Means hearing about the commission; also an editorial on the subject from the accountants' publication.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. STEFAN. Mr. Speaker, I ask unanimous consent that my colleague from New York [Mr. COLE] be permitted to extend his own remarks and to include therein an address delivered by the Honorable Frank Gannett.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. KELLER. Mr. Speaker, I ask unanimous consent to extend my own remarks and to include therein a very important and convincing letter from the Honorable Thomas E. Dewey.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. JONES of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a table prepared by the Department of Commerce.

The SPEAKER pro tempore. Is there objection?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. CHURCH. Mr. Speaker, I ask unanimous consent that on Tuesday next, after the disposition of matters on

the Speaker's table, and other special orders, I be permitted to address the House for 45 minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. HINSHAW. Mr. Speaker, I ask unanimous consent that after the address by the gentleman from Michigan [Mr. DONDERO] today I be permitted to address the House for 10 minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. RICH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include tables showing the deficit from 1933 to 1939.

The SPEAKER pro tempore. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. BENDER. Mr. Speaker, I ask unanimous consent that at the conclusion of the business on the Speaker's desk and any other special orders on Thursday next, I be permitted to address the House for 30 minutes.

The SPEAKER pro tempore. If the gentleman will permit a suggestion, the Chair feels certain that Wednesday and Thursday will be taken up entirely by the business of the House, while Monday and Tuesday will not. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WATERS OF YELLOWSTONE RIVER

Mr. WHITE of Idaho. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill S. 1759, granting the consent of Congress to the States of Montana, North Dakota, and Wyoming to negotiate and enter into a compact or agreement for division of the waters of the Yellowstone River, with House amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection?

There was no objection.

By unanimous consent the Speaker pro tempore appointed the following conferees: Mr. WHITE of Idaho, Mr. HILL, and Mr. HAWKS.

The SPEAKER pro tempore. Under previous order of the House the gentleman from Michigan [Mr. DONDERO] is recognized for 20 minutes.

CENSUS QUESTIONS

Mr. DONDERO. Mr. Speaker, there appeared in the public press on March 26 a statement that the Census Bureau would have available a 5-percent sample of its population enumeration, which would be published during the summer and that the total number of the unemployed might be compiled before the election.

That statement challenges my attention. The implication that any reasonable person can possibly draw from such an announcement on the part of the Census Bureau is that it might have a direct relation or a direct bearing on the coming election next November. If such is not the correct conclusion, if that is not a reasonable interpretation of such an announcement, why does the Census Bureau single out the one subject, the unemployed, to be announced before the election?

That announcement standing alone may not be impressive enough to challenge the attention of the people if it were not associated with certain questions to be asked by an army of 130,000 census enumerators who are to begin their work next week.

The census of 1940 has been given wide publicity. The attention of the whole Nation has been drawn to the fact that the people were to be subjected to questioning heretofore unknown to the people of the United States.

A resolution was introduced in the Senate during this session of Congress by a distinguished Senator from the State of New Hampshire, calling upon that historic legislative body to express itself in opposition to questions relating to the income of the people and to instruct the Bureau of the Census and the Secretary of Commerce, Hon. Harry Hopkins, that it was their judgment that such questions relating to income should be deleted. A hearing on this resolution was held by a subcommittee of the Committee on Commerce of the Senate, and full opportunity given for the proponents and opponents of that resolution to state their views.

After the hearing the committee reported it favorably to the Senate, but no further action has been taken.

I introduced an identical resolution in this House on February 26, being House Resolution 397, and which provides as follows:

Whereas section 4 of the act of June 18, 1929 (providing for the fifteenth and subsequent decennial censuses), provides that "* * * the fifteenth and subsequent censuses shall be restricted to inquiries relating to population, to agriculture, to irrigation, to drainage, to distribution, to unemployment, and to mines,"; and

Whereas the act of August 11, 1939 (providing for a national census of housing), extends the scope of the population inquiry of the Sixteenth Decennial Census to include the obtaining of information with respect to dwelling structures and dwelling units in the United States; and

Whereas neither of the acts aforementioned nor any other act of Congress authorizes the officers and employees of the United States charged with the duty of taking the Sixteenth Decennial Census to make inquiries with respect to income; and

Whereas, notwithstanding the absence of authority to make inquiries with respect to income, questions numbered 32 and 33 on the forms prepared by the Bureau of the Census to be used by the enumerators in taking the Sixteenth Census are as follows:

"Amount of money, wages, or salary received (including commissions)." (1939.)

"Did this person receive income of $50 or more from sources other than money, wages, or salary?" (1939); and

Whereas no jurisdiction can exist for officers and employees of the United States to lawfully arrogate to themselves the power to make unauthorized inquiries into the private affairs of citizens; and

Whereas it is particularly dangerous for officers and employees of the United States to abuse their authority in cases where citizens may tolerate such abuse of authority because of their fear of being prosecuted criminally; therefore be it

Resolved, That it is the sense of the House of Representatives that the Director of the Census and the Secretary of Commerce should immediately cause to be deleted from the population schedule proposed to be used in taking the sixteenth decennial census inquiries Nos. 32 and 33 now appearing upon such proposed schedule.

Little opportunity has been presented for the Congress to express itself in relation to this new form of inquisition into the private affairs of the people. We all know that at this late date no action will be taken, but the Bureau of the Consus, after proceedings were instituted in this Congress and after the resolution had been favorably reported, apparently believing that its position was untenable in insisting that questions 32 and 33 should be asked; and, undoubtedly, believing it had no legal right to ask the questions relating to income, and that it had gone beyond the scope of the law, resorted to the strategy adopted and known to the legal profession as "confession and avoidance." Confessing that the Bureau had no legal right to inquire into the income of the people and avoiding the issue by permitting the people to answer the questions in private without divulging their income to the enumerators but setting forth their income on a private slip of paper and sealing it in an envelope.

If the Bureau of the Census and the Secretary of Commerce had had any legal right whatever to inquire and snoop into the incomes of the people, they would not have retreated nor used this subterfuge to obtain the information.

The statute under which this census is to be taken clearly sets forth seven subjects to which inquiry can be made, namely, population, irrigation, agriculture, drainage, distribution, unemployment, and mines. It is strictly a statute of limitation. It is inclusive in the number of subjects listed and it is exclusive of all other subjects. No one can read into the law what is not there and nowhere in the statute is the subject of income mentioned. If Congress had intended, when it passed the law in 1929, that the income of the people should be a subject of inquiry, it would have said so. But having failed to include that subject no one, not even a bureau or a department of the Government, has any right to assume authority for making inquiry regarding a subject

which concerns the private affairs of the people. Such dictatorial and bureaucratic procedure and assumption of authority is one way to undermine the guaranteed rights of a free people and as Washington once predicted, "It means the eating away of the coast line of our national existence."

Now I desire to return to the subject that the Bureau of the Census deems so important that the information to be obtained should be published before election and that is the subject of the unemployed.

I have in my possession a copy or sample questionnaire issued by the Bureau of the Census relating to the population schedule. I also have in my possession a copy of the instructions delivered to this vast army of 130,000 enumerators.

Question 21 to be asked is as follows:

Was this person at work for pay or profit in private or nonemergency Government work during week of March 24–30? Yes or No.

Questions 22, 23, 24, and 25 are not to be asked if the answer is "Yes" to question 21. Question 21, above quoted, looks innocent enough standing alone, but when it is associated with the instructions sent out by the Bureau of the Census to the enumerators it becomes an inquiry not only to arouse suspicion but one that challenges the good faith and the proper intent of the Bureau of the Census in obtaining the information. What is the meaning of the words "at work" as interpreted by the Bureau of the Census?

If question 21 is answered "Yes or No," in accordance with the instructions placed in the hands of the enumerators, it will result in an inaccurate, unreliable, and untruthful census in regard to the number of unemployed.

I quote the instructions issued in regard to this subject found on pages 50 and 51 of Instructions to Enumerators, section 498 (b) and section 501 (b); and page 52, (d), section 498:

Enter "Yes" also for any person who worked during the week at unpaid family work as defined below.

Enter "Yes" for a person with a business of his own (such as a store owner, a radio-repair man, a contractor, or a peddler) who operated his business, that is, who attempted to sell his wares or to obtain orders, even though he may not have made any sales or performed any services during the week.

Section 501 (d), page 52, Instructions to Enumerators:

Enter "Yes" for each person who worked for pay or profit in his or her own home at any time during the week, as for example, a woman who took in laundry, or who made artificial flowers that she intended to sell, or did sewing at home for a shop or clothing factory.

In answering question 21, which is subtle and deceptive in the information it seeks to elicit when related to the instructions given, it might be well to give in full not only question 21 on the population schedule of the census blank but also to include questions 22, 23, 24, and 25, which are as follows:

Question No. 22:

If not, was he at work on, or assigned to public emergency work (W. P. A., N. Y. A., C. C. C., etc.), during week of March 24–30? Yes or No.

Question No. 23:

Was this person seeking work? Yes or No.

Question No. 24:

If not seeking work, did he have a job, business, etc.? Yes or No.

Question No. 25:

Indicate whether engaged in home housework (H), in school (S), unable to work (U), or other (Ot).

The first consideration in the study of these questions, if the answer to question 21 is "Yes," the other four are not asked. Bearing in mind the instructions given to the enumerators, let us clearly understand what the Census Bureau believes to be a person "at work." Let us make it understandable. If you worked for pay or profit at any private or nonemergency Government work, regardless of the nature of that work or the amount of money you received during the week of March 24 to 30, 1940, you were employed. In other words, if you were out trying to peddle razor blades, shoelaces, flavoring extracts, although really unemployed, or if you took out the ashes for a neighbor for pay, shoveled the snow from the sidewalks for pay, washed the windows in a store that week for pay, even though you had never done it before nor be offered the job thereafter, you would be employed. And you would also be employed whether or not you sold any razor blades, flavoring extract, or other articles; and the same is true if your wife made an effort to make a sale—she would be employed. If through sheer necessity she took in the first bundle of laundry or did a little sewing at home for some shop or factory, she would be employed; or if she made a few artificial flowers which she intended to sell, even though she was not successful in selling a single flower, she would be listed as employed, or, in the words of the census, "at work."

The same applies to any person 14 years old or over. If you or any member of your family 14 years old or over worked at anything for pay or profit, including unpaid family work, such as helping out at the little newsstand, and so forth, regardless of whether you received any money or not, and if you did, regardless of the amount received, you or they were employed.

Questions 22, 23, and 24 would give the information necessary: Was this person on emergency work? Was this person seeking work? or Did this person have a job?

Let us look at it from another angle. How many people who are, in truth, unemployed will be required to answer "yes" to question No. 21? Who of us, if unemployed, would not try to peddle something or get an odd job here or there in order to get the barest of necessities? Who of us would not cut cordwood for a wealthy neighbor in the North country so that the money would not be called charity, or who of us would not wash the windows of the rich man's home in the Southland for the same reason? Yet all this time we are really unemployed.

Remember that the enumerator is the sole judge of what he will enter upon the schedule; second, that the person furnishing the information is not permitted to see the entries made; third, that this unpropitious question, No. 21, will require an answer of "yes" from untold numbers of persons who are in fact unemployed; fourth, that a "Yes" in answer to this question causes the other employment questions to go unasked; and, last but by no means least, the natural temptation of the enumerator to have done with it. Question No. 21 looms large and foreboding.

Question No. 21 is dangerous. If it is not removed from the census schedules, there may be 1,000,000, 2,000,000, or even 3,000,000 less unemployed people to talk about in the coming Presidential campaign.

Referring to "Instructions to Enumerators—Population and Agriculture—1940," known as form No. PA–1, page 4, paragraph 20:

Untruthful replies: You have a right not only to an answer, but to a truthful answer. Do not accept any statement that you believe to be false. Where you know that the answer is incorrect, enter upon the schedule the correct answer as nearly as you can ascertain it.

This instruction, above quoted, gives the enumerator a free hand to enter upon the schedule any answer which he, the enumerator, thinks is right. The supposition or assumption that the enumerator can answer the question better than the citizen questioned is preposterous and should not be permitted. Let me quote further from form PA–1, a sentence contained in paragraph 21:

Be particularly careful that no person is reading the entries you are making or the entries you have made for other households.

In other words, the person being questioned has no guarantee, even though he is truthful in every detail, that the enumerator is putting it down in the book right, because he is not permitted to see that it is done right. Remember this instruction because it is exceedingly important.

Questions 21, 22, 23, 24, and 25 covering the employment situation are cunningly and ingeniously framed and when asked in their chronological order as per strict instructions set forth in PA–1, page 50, paragraph 496—

Do not ask them in any other order.

present a unique picture of an attempt to show that there are a great many less unemployed people in the country than is actually the case.

It must be obvious to every thinking citizen that the enumerator is not himself entitled to anything, as his right, except to ask the questions contained in the questionnaire and to receive and record the citizen's answers thereto. If the enumerators followed this instruction they will have been authorized to set themselves as the judges of the integrity of the citizens, as the judges of the truthfulness of the citizens' answers, and the result of the census will be an inaccurate and unreliable mixture of what the citizens say is true and what the census enumerators decided to put in because they thought it was true. Any enumerator who might not choose to believe some citizen would, under his instruction, be authorized to disregard the citizen's answers and to put in such answers as the enumerator might believe to fit the particular case.

A very grave danger lies here. When the questionnaire reaches Washington, if some official should investigate and should determine that some answer was incorrect, and should undertake to invoke the penalty of fine or imprisonment against the citizen, how would any man or woman be able to prove that the enumerator had answered the question according to his belief, instead of according to the facts as represented by the citizen?

There is not time enough to touch on all the dangers involved in the way the 1940 decennial census is to be conducted. Suffice it to say, however, that attempts never heretofore dreamed of are being made to ignore the Bill of Rights, to defy the Constitution, to override the liberties of the citizens, and to set up a precedent of arbitrary regulation, and then to endeavor to invoke the penalties prescribed by the Congress for failure to answer proper questions in order that the bureaucrats may compel the answering of questions not contemplated by the Congress when it passed the law. [Applause.]

Mr. KELLER. Mr. Speaker, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. KELLER. Is it not true that at every 10-year period, when the census is taken, new questions have always been used to cover the new conditions that have arisen in the meantime?

Mr. DONDERO. I have no information on the subject that new questions have been asked, but this census is to be taken under the 1929 law, and the questions that I complain about were not included in the census of 1930.

Mr. KELLER. But, as a matter of fact, I think the gentleman knows, because I have a very high regard for his intelligence, and ordinarily for his judgment, that what I have suggested is true—that every time we have included new questions from the very First Census until the last one.

Mr. DONDERO. When they are authorized by law, yes; but the 1929 act only includes seven subjects, and "income" is not one of them. It is a statute of limitation.

Mr. KELLER. One of the most important things we have to consider at this time is the matter of national income.

Mr. DONDERO. Let me say to my able friend from Illinois that if the income of the people is an important question, why does not the Government of the United States now divulge the information it has concerning every person in this Nation with an income of $1,000 or more?

Mr. KELLER. Unfortunately, it has not that information to the extent that we must have it, and this information which we are asking for will go much more fully into it than has been done before. It does seem to me that we ought to dig in and find out what the national income is to be in this Nation, because without it we cannot intelligently discuss the questions that are facing us at the present time, in my judgment. Why not have it done? The gentleman does not object to answering that, does he?

Mr. DONDERO. Does the gentleman mean the question of income?

Mr. KELLER. Yes.

Mr. DONDERO. I do not, for the reason that the Government already has the information in regard to my income.

Mr. KELLER. If it did not have it, you would not object to it?

Mr. DONDERO. I would object to it unless the Congress authorizes it. It is an unauthorized question as it stands under the present law.

Mr. KELLER. As a matter of fact, have not the officials of the Census Bureau always had authority to make whatever questions they really found necessary to bring out the facts in the case?

Mr. DONDERO. Oh, I think not. I do not think my able friend from Illinois believes that, unless the Census Bureau is authorized by Congress to do so.

Mr. KELLER. From the very first time to this last census it has been within the discretion of the officials to ask whatever questions they saw fit.

Mr. DONDERO. I must disagree with any such conclusion as that. They do not have the right to ask a single question not authorized by Congress.

Mr. PLUMLEY. Mr. Speaker, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. PLUMLEY. I would like to ask the gentleman if he thinks there is any reason why a snooping enumerator could not obtain the information contained in the answers made in confidence and put it in an envelope, by just opening that envelope if he wants to, and then if it is of value to him, from a neighborhood gossip standpoint, putting the name of the person who contributed that envelope on the outside of the envelope?

Mr. DONDERO. Well, I think the method now employed to obtain the information regarding income will not suffice, will not be accurate, and will be entirely unreliable, and it is not authorized by law. That is my objection to it.

Mr. PLUMLEY. I do not want to have the gentleman misunderstand me.

Mr. DONDERO. That would be possible, as the gentleman suggests, of course.

Mr. PLUMLEY. Absolutely. My only opposition to this is—and I do not want to be misunderstood—from the standpoint of one who comes from a rural State and who knows how widely disseminated all information is, notwithstanding the law and the prohibitions contained in it, with respect to GEORGE DONDERO'S business if he lives in Northfield, Vt. Everybody will know it overnight. I do not think it is anybody's business, and if large incomes are to be advertised and small incomes are to be advertised, I do not take any exception to that, but I am opposed to this great Government of the United States getting down to the basis of a missionary meeting—gossip society.

Mr. DONDERO. Of course, I will say to the gentleman from Vermont that if they did know my business they would be surprised how little it is.

Mr. WHITE of Idaho. Mr. Speaker, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. WHITE of Idaho. Does the gentleman know that the National Association of Merchants has made a special request that the Census Bureau compile the very information he criticizes?

Mr. DONDERO. I have heard that discussed before the Senate committee, and I wonder why they want to know how much a man's salary might be below $1,000 when the Internal Revenue Department already has it for every person in the Nation above $1,000.

Mr. WHITE of Idaho. Does not the gentleman think that if we now had the information we are seeking to obtain in the coming census whereby we could make comparisons down throughout the length of time this Government has been in operation that it would be invaluable in the consideration of the development of the country, legislative trends, and trends of business development?

Mr. DONDERO. That is a matter open to argument and long discussion. There is no authority for asking or making inquiry for such information at the present time.

Mr. HEALEY. Mr. Speaker, will the gentleman yield?

Mr. DONDERO. Certainly.

Mr. HEALEY. If I understand the gentleman correctly in his reply to the gentleman from Illinois [Mr. KELLER], he said Congress has directly and inflexibly stated the questions that may be asked by an enumerator of the census.

Mr. DONDERO. No. I answered the gentleman's question in this way: Congress has passed a law on the subjects about which inquiry can be made, and that income is not one of them.

Mr. HEALEY. There is, of course, much room for discussion on the part of the authorities charged with taking the census as to the type of question that will conform with the subject matter.

Mr. DONDERO. To answer the gentleman, the only reason the Census Bureau thinks it has a right to ask the questions on income is because it claims that income is akin to population. There is not a Member in this House but can think of more intimate and delicate questions more closely related to the subject of population than income.

[Here the gavel fell.]

The SPEAKER pro tempore. Under the previous order of the House the gentleman from California [Mr. HINSHAW] is recognized for 10 minutes.

NATIONAL LABOR RELATIONS BOARD

Mr. HEALEY. Mr. Speaker, will the gentleman from California yield?

Mr. HINSHAW. I yield.

Mr. HEALEY. Mr. Speaker, I ask unanimous consent that my colleague, the gentleman from Utah [Mr. MURDOCK], and myself, members of the Special Committee to Investigate the National Labor Relations Board may have 10 days in which to file minority views in connection with the majority report which is to be submitted.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. BROOKS. Mr. Speaker, will the gentleman from California yield?

Mr. HINSHAW. I yield.

EXTENSION OF REMARKS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the subject of flood control and navigation in the Red River Valley, a speech I made recently over the radio.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

COAST DEFENSES

Mr. HINSHAW. Mr. Speaker, I do not expect to use all the time allotted to me, but I want to direct the attention of the House to the thought that there are certain aspects of national defense to which we have not, perhaps, given close enough attention. One of these is coast defense. Today I introduced a resolution, which is entirely local in character, calling upon the Secretary of War to report to the House of Representatives concerning, first, the nature and adequacy of existing measures of defense on the coast of southern California against hostile attack; second, what, if any, critical shortages in personnel or equipment for the United States Army exists which might jeopardize a successful defense of the coast of southern California; third, the scope of existing harbor-defense projects and the adequacy of such projects when completed to provide a reasonable defense of the harbors of such coast; and, fourth, the present stage of completion of existing harbor-defense projects in southern California and the policy of the War Department as to their completion. This is entirely local in character, but it is my hope that the chairman of the Committee on Military Affairs may consider this matter of sufficient importance to broaden the resolution to include the entire coast of the United States.

When the War Department officials or any other department officials come before the Appropriations Committee they may testify voluntarily only within the limits of the budget which is under consideration. Consequently the information of record in the committee hearings is likely to be incomplete. It is incomplete unless some member of the committee takes it upon himself to make a deeper inquiry by questioning the departmental witness beyond the scope of the budget.

I have introduced this resolution not in any sense of alarm, but because I am sure that we do not have full and complete information on our coast defenses, and certainly our coast defenses are our second line of defense. I am particularly interested in adequate defense for the coast of southern California because I live there and I am certain that the present defenses are inadequate to prevent even a raid, let alone a vigorous attack. I do not anticipate any raid or attack, but the best insurance is a good defense posture.

Mr. PLUMLEY. Will the gentleman yield?

Mr. HINSHAW. I yield to the gentleman from Vermont.

Mr. PLUMLEY. Has the gentleman made a similar request of the Navy Department?

Mr. HINSHAW. No; I have not. I am thinking particularly of the military aspect of the coast defenses. The Hepburn committee made a complete report concerning the naval aspect of defenses all over the United States and its Territories and island possessions.

Mr. PLUMLEY. Does the gentleman think you can get the Army and the Navy to agree on what is adequate defense for southern California?

Mr. HINSHAW. Of course, I do not know. However, there is between the Navy and Army what is called the joint board. The General Staff of the Army and the high command of the Navy are both represented on this board, and it is assumed they cooperate in such matters.

Mr. PITTENGER. Will the gentleman yield?

Mr. HINSHAW. I yield to the gentleman from Minnesota.

Mr. PITTENGER. Is it not the proper procedure for that board to present evidence before the Naval Affairs Committee and the Military Affairs Committee and ask for these additional defenses?

Mr. HINSHAW. Not unless they are called upon or directed to do so, as I understand it.

Mr. Speaker, I shall not use any more of my time except to say again that I hope the Committee on Military Affairs will consider this matter favorably and perhaps enlarge the scope of this inquiry.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. HINSHAW].

There was no objection.

EXTENSION OF REMARKS

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an opinion of the Supreme Court rendered March 25, 1940, on the Puerto Rican land situation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan [Mr. CRAWFORD]?

There was no objection.

ADJOURNMENT

Mr. KELLER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p. m.), under its previous order, the House adjourned until Monday, April 1, 1940, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Committee on Merchant Marine and Fisheries will hold hearings at 10 a. m. on the following dates on the matters named:

Tuesday, April 2, 1940:

H. R. 7169, authorizing the Secretary of Commerce to establish additional boards of local inspectors in the Bureau of Marine Inspection and Navigation.

Tuesday, April 9, 1940:

H. R. 7637, relative to liability of vessels in collision.

Tuesday, April 16, 1940:

H. R. 8475, to define "American fishery."

COMMITTEE ON INSULAR AFFAIRS

There will be a meeting of the Committee on Insular Affairs on Monday, April 15, 1940, at 10 a. m., for the continued consideration of H. R. 8239, creating the Puerto Rico Water Resources Authority, and for other purposes.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization Wednesday, April 3, 1940, at 10:30 a. m., for the consideration of private bills and unfinished business.

COMMITTEE ON THE PUBLIC LANDS

Tuesday, April 2, 1940:

There will be a meeting of the Committee on the Public Lands on Tuesday, April 2, 1940, at 10:30 a. m., in room 328, House Office Building, for the consideration of H. R. 3648.

COMMITTEE ON THE JUDICIARY

On April 2, 1940, at 10:30 a. m., there will be continued before Subcommittee No. 4 of the Committee on the Judiciary, a hearing on the bill (H. R. 7534) to amend an act to prevent pernicious political activity (to forbid the requirement that poll taxes be paid as a prerequisite for voting at certain elections). The hearings will be held in room 346, House Office Building, and will be continued on the following dates: April 3, April 9, and April 10, at 10:30 a. m.

COMMITTEE ON FLOOD CONTROL

SCHEDULE OF HEARINGS ON FLOOD-CONTROL BILL OF 1940 BEGINNING APRIL 1, 1940, AT 10 A. M. DAILY

The hearings will be on reports submitted by the Chief of Engineers since the Flood Control Act of June 28, 1938, and on amendments to existing law. The committee plans to report an omnibus bill with authorizations of approximately one hundred and fifty to one hundred and seventy-five million dollars, covering the principal regions of the country.

Maj. Gen. Julian L. Schley, Chief of Engineers, the president of the Mississippi River Commission, the assistants to the Chief of Engineers, the division engineers, and the district engineers will be requested to submit additional statements as individual projects are considered and as desired by the committee.

1. Monday, April 1: Sponsors and representatives of the Corps of Engineers for projects on the White River and tributaries.

2. Tuesday, April 2: Sponsors and representatives of the Corps of Engineers for projects in report on rivers in Texas and the Southwest.

3. Wednesday, April 3: Sponsors and representatives of the Corps of Engineers for projects in the Los Angeles area and in the Pacific Northwest.

4. Thursday, April 4: Sponsors and representatives of the Corps of Engineers for projects in Colorado and other western areas.

5. Friday, April 5: Sponsors and representatives of the Corps of Engineers for the lower Mississippi River and other tributaries.

6. Saturday, April 6: Sponsors and representatives of the Corps of Engineers for other drainage-basin areas for other projects in other parts of the country.

7. Monday, April 8: Representatives from the Department of Agriculture and other governmental agencies.

8. Tuesday, April 9: Senators and Members of Congress.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1494. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated March 19, 1940, submitting a report, together with accompanying papers and an illustration, on a preliminary examination and survey of, and reexamination of reports on Wilson Harbor, N. Y., authorized by the River and Harbor Act approved August 26, 1937, and requested by resolution of the Committee on Rivers and Harbors, House of Representatives, adopted May 12, 1937 (H. Doc. No. 679); to the Committee on Rivers and Harbors and ordered to be printed, with an illustration.

1495. A letter from the chairman, Railroad Retirement Board, transmitting the report of the Railroad Retirement Board for the fiscal year ended June 30, 1939, together with supplementary information covering the period July 1 to September 30, 1939; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. DIES: Special Committee to Investigate Un-American Activities. House Resolution 446. Resolution to certify report of the House of Representatives' Committee to Investigate Un-American Activities to the United States attorney for the District of Columbia to proceed against James H. Dolsen for contempt, (Rept. No. 1900). Referred to the Committee of the Whole House on the state of the Union.

Mr. McLAUGHLIN: Committee on the Judiciary. H. R. 9139. A bill to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto; without amendment (Rept. No. 1901). Referred to the House Calendar.

Mr. SMITH of Virginia: Intermediate report of the Special Committee of the House of Representatives of the Seventy-sixth Congress, first session, appointed pursuant to House Resolution 258, to investigate the National Labor Relations Board; without amendment (Rept. No. 1902). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H. R. 9153. A bill to authorize a preliminary examination and survey of the Big Sur River, also the Carmel River, and their tributaries in the county of Monterey and State of California, for flood control, for run-off and water-flow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

By Mr. FULMER:

H. R. 9154. A bill to promote the national health and welfare through appropriation of funds for the construction of hospitals; to the Committee on Interstate and Foreign Commerce.

By Mr. KEFAUVER:

H. R. 9155. A bill to provide for the establishment, maintenance, and operation of the Tennessee National Forest, and for other purposes; to the Committee on Agriculture.

By Mr. RANKIN:

H. R. 9156. A bill for the creation of the United States De Soto Exposition Commission to provide for the commemoration of the four hundredth anniversary of the first crossing of the Mississippi River, by Hernando De Soto, the commemoration of De Soto's visit to the Chickasaw Territory in Northern Mississippi, and the two hundred and fifth anniversary of the Battle of Ackia, and for other purposes; to the Committee on the Library.

By Mr. CHAPMAN:

H. R. 9157. A bill to authorize the establishment of a fish-cultural station in the State of Kentucky; to the Committee on Merchant Marine and Fisheries.

By Mr. MAY:

H. R. 9158. A bill to amend the act entitled "An act for the protection of certain enlisted men of the Army," approved August 19, 1937, and for other purposes; to the Committee on Military Affairs.

By Mr. PETERSON of Florida:

H. R. 9159. A bill providing for a preliminary examination and survey of St. Petersburg Harbor; to the Committee on Rivers and Harbors.

By Mr. SUMNERS of Texas:

H. R. 9160. A bill to provide for trials of and judgments upon the issue of good behavior in the case of certain Federal judges; to the Committee on the Judiciary.

By Mr. WELCH:

H. R. 9161. A bill to amend the Panama Canal Act; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLVERTON of New Jersey:

H. R. 9162. A bill to provide for the construction of five vessels for the Coast Guard designed for ice-breaking and assistance work; to the Committee on Merchant Marine and Fisheries.

By Mr. VINSON of Georgia:

H. R. 9163. A bill to amend chapter 21 of the Internal Revenue Code, relating to the processing tax on certain oils imported from the Philippine Islands or other possessions of the United States, so as to provide uniform treatment for Guam, American Samoa, and the Philippine Islands; to the Committee on Ways and Means.

By Mr. AUGUST H. ANDRESEN:

H. R. 9164. A bill relating to the acquisition of foreign silver by the United States; to the Committee on Ways and Means.

By Mr. LEMKE:

H. J. Res. 502. Joint resolution making an additional appropriation for work relief and relief in certain drought-stricken areas of the United States; to the Committee on Appropriations.

By Mr. HAVENNER:

H. Res. 447. Resolution directing the Secretary of the Interior to transmit to the House of Representatives a report relative to a survey of the possibilities and prerequisites of the development of the Territory of Alaska; to the Committee on the Territories.

By Mr. MOSER:

H. Res. 448. Resolution to provide for an investigation of the Civil Service Commission and its activities; to the Committee on Rules.

By Mr. HINSHAW:

H. Res. 449. Resolution directing the Secretary of War to provide certain information concerning the coast defenses of southern California; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MACIEJEWSKI:

H. R. 9165. A bill for the relief of John Carroll; to the Committee on Military Affairs.

By Mr. CHAPMAN:

H. R. 9166. A bill granting a pension to Sarah C. Freeland; to the Committee on Pensions.

By Mr. KITCHENS:

H. R. 9167. A bill for the relief of Ben H. Thomason; to the Committee on Claims.

By Mr. CROWE:

H. R. 9168. A bill for the relief of Ellison McCurry; to the Committee on Claims.

By Mr. CLEVENGER:

H. R. 9169. A bill granting an increase of pension to Jane Vanskiver; to the Committee on Invalid Pensions.

By Mr. LELAND M. FORD:

H. R. 9170. A bill for the relief of Robert P. Sick; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7250. By Mr. McANDREWS: Petition of the racing homing-pigeon fanciers and friends of Chicago, Ill., supporting House bill 7813; to the Committee on Agriculture.

7251. By Mr. HART: Petition of the New Jersey Press Association, opposing the Patman chain-store bill as menacing to free business enterprise and destructive of chain stores whose natural development has been to the benefit of consumers and producers; to the Committee on Ways and Means.

7252. Also, petition of the New Jersey Audubon Society, Newark, N. J., favoring the adoption of the plan of flood control for the Passaic River Valley which contemplates a dry detention dam being constructed at Two Bridges and which would not result in permanently flooding any of the Passaic River bottom lands above Two Bridges; to the Committee on Flood Control.

7253. Also, petition of the Associated General Contractors of New Jersey, Trenton, N. J., opposing the use of Work Projects Administration funds and Work Projects Administration labor on Federal-aid highway projects; to the Committee on Appropriations.

7254. Also, petition of the New Jersey State Federation of Labor, Newark, N. J., favoring the passage of the amendments to the National Labor Relations Act sponsored by the American Federation of Labor; to the Committee on Labor.

7255. By Mr. LUDLOW: Petition of Harrison White, of Indianapolis, Ind., relating to the fiscal policy of the United States; to the Committee on Appropriations.

7256. By Mr. THOMASON: Petition of residents of El Paso, Tex., urging passage of the Neely block-booking bill; to the Committee on Interstate and Foreign Commerce.

7257. By Mr. SCHIFFLER: Petition of L. Litman, president, and Sara Durham, secretary, Townsend Club, No. 1, Moundsville, W. Va., lamenting the passing of the late Senator William Edgar Borah, of Idaho; to the Committee on Memorials.

7258. By the SPEAKER: Petition of the General Welfare Federation of America, Inc., State of Florida, Congressional District No. 1, asking that the Seventy-sixth Congress enact the improved General Welfare Act (H. R. 5620); to the Committee on Ways and Means.

7259. Also, petition of the American Student Union, University of California Chapter, making certain demands regarding the National Youth Administration; to the Committee on Military Affairs.

7260. Also, petition of the American Communications Association, Local 31, supporting Senate bill 591; to the Committee on Banking and Currency.

7261. Also, petition of the Polish Community Home, Binghamton, N. Y., with respect to aid and relief from America for the suffering, needy, and starving people of Poland; to the Committee on Foreign Affairs.

7262. Also, petition of the International Workers Order, Branch 939, asking for the discontinuance of the Dies committee; to the Committee on Rules.

7263. Also, petition of Thelma R. Grimm and sundry citizens of Columbus, Ohio, requesting the passage of the Neely bill (S. 280); to the Committee on Interstate and Foreign Commerce.

SENATE

MONDAY, APRIL 1, 1940

(Legislative day of Monday, March 4, 1940)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. Duncan Fraser, assistant rector, Church of the Epiphany, Washington, D. C., offered the following prayer:

Almighty God, who art the Father of all men upon the earth, most heartily we pray that Thou wilt deliver Thy children from the cruelties of war and lead the nations into the way of peace. Teach us to put away all bitterness and misunderstanding, that we, with all the brethren of the Son of Man, may draw together as one comity of peoples and dwell evermore in the fellowship of that Prince of Peace who liveth and reigneth with Thee in the unity of the Holy Spirit both now and for evermore. Amen.